

UNITED NATIONS
HIGH COMMISSIONER FOR REFUGEES

HANDBOOK FOR EMERGENCIES
PART ONE: FIELD OPERATIONS

GENEVA December 1982

Using the handbook


Chapters may be located quickly using the key opposite. Each chapter starts with an annotated list of contents. In chapters 5-11 this is followed by an overview page setting out key considerations. Sections within these chapters and chapter 12 start with summaries. Points worthy of special attention are underlined throughout the text. Cross-references are by chapter, section and paragraph, e.g. "see ch.9.5.3."

For convenience, "Representative" is used to refer to the High Commissioner's representative in the country where the emergency occurs, regardless of the representative's official title. "Headquarters" refers to UNHCR Headquarters in Geneva. As is explained on page 1, "refugee" is used to describe any person of concern to UNHCR. "Statute" and "statutory" refer to the Statute of the High Commissioner's office (General Assembly resolution 428 (v) of 14 December 1950). "Operational partner" is used for convenience to describe an organization implementing all or part of the UNHCR emergency programme, without distinction as to funding. (The phrase more correctly describes an organization contributing its own resources to the programme; an organization wholly funded by UNHCR is termed an "implementing agency".)

Part One of the handbook may be freely reproduced and adapted, with acknowledgement to UNHCR. It is also available in French and will be produced in Spanish, UNHCR would be grateful for copies of any translations into other languages.

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**NATIONS UNIES
LE HAUT COMMISSAIRE
POUR LES RÉFUGIÉS**



**UNITED NATIONS
THE HIGH COMMISSIONER
FOR REFUGEES**

Palais des Nations
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Suisse

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FOREWORD TO THE FIRST EDITION

This first edition of the Handbook for Emergencies is intended to provide guidance on the management of refugee emergencies. It is the result of a considerable process of consultation, review and improvement. It replaces the provisional version issued in 1981 on which comments were invited. Although the Handbook will be subject to modification and change in the light of future experience, I believe that as it now stands it provides a common basis for action for all those, both inside and outside UNHCR, involved in the management of refugee emergencies.

A handwritten signature in black ink, reading "Poul Hartling".

Poul Hartling

INTRODUCTION

The handbook is in two parts. This, the first part, is a guide to setting up emergency operations for large-scale influxes of refugees. The second part deals specifically with the internal UNHCR dimension of decision-making and organization in emergencies. The first is available to all those who work with refugees; the second part is for staff members of UNHCR.

The handbook was first produced as a single volume in a provisional version in September 1981. Comments were invited from reviewers and UNHCR staff members. Clearly the most tangible of the many suggestions that have been incorporated is the change in size: the provisional edition in its bulky binder is replaced by two smaller more compact volumes.

In addition to UNHCR, many international and national organizations have important roles, while governments of asylum have, of course, a special and unique responsibility. Although addressed primarily to UNHCR staff, the first part of the handbook seeks to offer a basis for common action for all those involved. The need and responsibility for the action suggested in the different chapters will, however, vary greatly in each emergency. Unless this qualification is borne in mind, a reader may get the false impression that the necessary action is always the responsibility of UNHCR.

This first edition reflects the growing attention both within UNHCR and outside to improving the management of refugee emergencies. These sudden and sometimes large-scale threats to life call for an organized systematic response. At all levels, from the solution to a technical problem in the settlement itself up to that of co-ordi-

nation between a government and participating international and voluntary agencies, there are lessons from past emergencies which should inform the management of new ones.

Drawing on this accumulated experience, the handbook is a manager's guide. Principles of response and possible solutions are proposed. However it makes no pretence to have all the answers. Each emergency poses its own set of problems. Those interested should look at some of the growing number of actual case studies of emergencies: both UNHCR evaluation reports, which are limited to internal circulation, and published articles.^{1/} Although not itself including case studies, the handbook has set out to distil these experiences into useful principles.

Better informed management is not however a substitute for professional expertise. Indeed a major theme of the handbook is how to select the right expert advice. Nor does the handbook replace initiative, commitment and the other personal qualities which have enabled managers in the field and at Headquarters to put together successful emergency programmes in the past. But a UNHCR officer who confronts an emergency can now employ the handbook, and as a consequence will be much less likely to repeat the mistakes of the past. Those who suffer most from management errors are of course those whose voice is usually least clearly heard in the confusion of an emergency, the refugees themselves.

During the drafting of the handbook it sometimes seemed that there should be a third part in addition to the present two parts.

^{1/} See, for example, Disasters, the journal of the International Disaster Institute, which often contains articles on refugee emergencies, and Ross Institute (1982) Publication No. 14: Refugee Camp Health Care: Selected Annotated References.

This last part would be a 'Refugees' Handbook' and would suggest to them ways of coping with relief and the relief worker. In the last few years much thought has been given to developing services and infrastructure for refugee settlements that are simple enough to work yet capable of meeting the needs of large numbers of people concentrated together. Interest has too often not gone beyond this essentially technical puzzle to the next step: how the refugees might overcome the strangeness of their crowded new environment and actively participate in its evolution. Too often the refugee remains daunted, a passive recipient of a relief whose system he or she does not understand.

Indeed improvements in the techniques of relief alone that are not matched by an increased refugee involvement can be self-defeating. It is increasingly clear that a refugee's first reception in the country of asylum can critically determine his or her ability to become self-sufficient.^{2/} Ill-considered assistance at the start, however efficiently delivered, can create a dependency syndrome which may last for years. A first rush of inappropriate and unfamiliar relief goods can stifle the potential enterprise of the refugees and increase their sense of alienation. The cowed and silent refugee squatting on inhospitable terrain awaiting a relief handout has become an image of our times. Relief can impose its own imprisonment.

Within the limits of the host government's laws, refugees must be persuaded to take responsibility for their own welfare; inputs of outside assistance must be a sensitive response to needs that the refugees genuinely cannot meet on their own.

The refugees are often most able to help themselves, and thus be least reliant on outside assistance, if they are not grouped together in highly organized camps. Programme planners must overcome their instinct to endorse camps because they are convenient for the efficient delivery of outside emergency assistance. That early convenience too often becomes a long-term burden for refugee, host government and donor alike. Small, less formal groupings of refugees, provided their protection, access to land and related economic rights are assured, often enjoy much better prospects of self sufficiency than large highly planned but artificial settlements.

Nevertheless refugee settlements of the camp type seem to be here to stay. The various pressures of mass influx on countries of asylum and the occasional need to group refugees together for their own protection make it probable that these unsatisfactory and artificial institutions will survive. This handbook seeks to make even these institutions as "un-camplike" as possible and ensure that with active refugee participation they achieve an appropriateness in terms of services and infrastructure that neither sets them too far apart from local communities around them nor puts them in so close a dependence on international assistance that they can never escape it.

Acknowledgements

Very many individuals and organizations have helped UNHCR in the preparation of the handbook, not only directly but also indirectly through their work with UNHCR in recent emergencies. This help is most gratefully acknowledged. Particular mention should

^{2/} See, for example, Robert Chambers 'Rural Refugees in Africa. Past Experience, Future Pointers', Disasters, Vol.6, No.1, 1982.

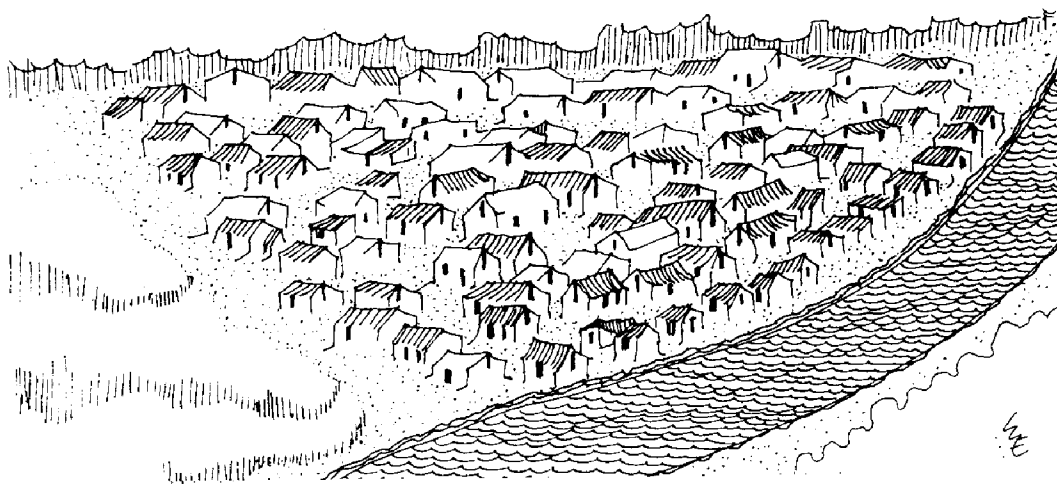
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be made of the assistance received from the Centers for Disease Control (USA), The International Committee of the Red Cross, The International Disaster Institute, Intertect, The League of Red Cross Societies, Oxfam, The Oxford Polytechnic Disasters and Settlements Unit, The Refugee Health Unit of the Ministry of Health, Somalia, The Register of Engineers for Disaster Relief (UK), The Ross Institute of the London School of Hygiene and Tropical Medicine, UNDRP, UNICEF, WHO and WFP. Mr Ludovic van Essche of UNDRP kindly prepared the graphics. The hand-

book has also drawn on many of the publications listed as "further references" at the end of chapters.

The handbook will be revised periodically; important changes will, of course, be communicated to UNHCR staff without delay. Responsibility for errors rests with UNHCR. Readers are requested to bring these, and suggestions for improvements, to the attention of:

The Emergency Unit,
UNHCR, Palais des Nations,
CH 1211 Geneva 10,
Switzerland.



ABBREVIATIONS

FAO	Food and Agriculture Organization of the United Nations
ICM	Inter-Governmental Committee for Migration
ICRC	International Committee of the Red Cross
ILO	International Labour Organization
LRCS	League of Red Cross Societies
NGO	Non-governmental organization (voluntary agency)
OAU	Organization of African Unity
PAHO	Pan American Health Organization
UNDP	United Nations Development Programme
UNDRO	Office of the United Nations Disaster Relief Co-ordinator
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNICEF	United Nations Children's Fund
UNIPAC	UNICEF Packing and Assembly Centre, Copenhagen
WFP	World Food Programme
WHO	World Health Organization

CHAPTER 1: AIM AND PRINCIPLES

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AIM AND PRINCIPLES

1.1 Definition and aim

1. The majority of UNHCR's programmes begin as a result of an emergency: a sudden influx of refugees ^{1/}. The organization and procedures of UNHCR reflect this; much of UNHCR's normal work is in effect an emergency response. There are, however, situations that are clearly exceptional. This handbook addresses the needs of such situations.

2. The distinction is one of degree: a theoretical definition for the purposes of this handbook might be that an emergency is any situation in which the life or well-being of refugees will be threatened unless immediate and appropriate action is taken, and which demands an extraordinary response and exceptional measures. It should be noted that an emergency can develop in an existing programme.

3. What is important is less a definition than the ability to recognize in time the development of situations in which an extraordinary response will be required of UNHCR in order to safeguard the life or well-being of refugees.

4. Much of the handbook is concerned with guidelines on the material assistance likely to be needed when large numbers of refugees, often of rural origin, cross frontiers to seek asylum. Such emergencies are, of course, not the only situations which demand an extraordinary response of UNHCR. Equally swift action and intervention will be required in emergencies that concern protection, for example when events suddenly place in danger refugees who had previously enjoyed asylum in safety. However, action in these emergencies will depend to such a large extent on the specific

circumstances that too detailed guidelines are unlikely to be useful.

5. The aim of UNHCR's emergency response is to provide protection to persons of concern to UNHCR and ensure that the necessary assistance reaches them in time.

1.2 Responsibilities

Governments and UNHCR

1. Governments are responsible for the security and safety of, assistance to and law and order among, refugees on their territory. UNHCR provides material assistance to refugees at the request of governments. The statutory function of providing international protection to refugees and seeking permanent solutions for their problems is, however, always UNHCR's responsibility.

2. Whatever the organizational manner in which UNHCR provides emergency assistance in response to a government request, UNHCR is responsible for ensuring that the immediate needs of the refugees are met in an effective and appropriate manner. However responsibilities for practical implementation are allocated, all those involved, both inside and outside the UN system, should have clearly defined responsibilities within a single overall programme, whether the aid is provided through multi-lateral or bilateral channels. Only thus will duplication of effort and gaps be avoided.

UN organizations

3. Responsibility for co-ordinating the response of the UN system to a refugee emergency normally rests with UNHCR. In certain cases special arrangements may be made by the Secretary-General.

^{1/} For convenience, "refugee" is used in this handbook to refer to all persons of concern to UNHCR. The different categories are described in chapter 2.2.

4. The material needs of refugees are likely to cover sectors for which other organizations in the UN system have special competence, as, for example, FAO, WFP, WHO and UNICEF in the food, health and water supply sectors. UNHCR will seek assistance and expertise from such organizations and from UNDP as appropriate, and the implementing arrangements agreed with the government may give specific responsibilities to other UN organizations.

5. There is a clear distinction between UNHCR's responsibilities and those of the Office of the United Nations Disaster Relief Co-ordinator, the focal point in the UN system for disaster relief matters. UNDRO is, inter alia, responsible for the co-ordination of relief assistance to persons compelled to leave their homes as a result of, or as a precautionary measure against, the effects of natural and other disasters such as earthquakes, volcanic eruptions, droughts, floods, storms, and epidemics and also aviation, maritime, industrial or nuclear radiation accidents. Where victims of such disasters include refugees, UNHCR is responsible for helping to provide the refugees with the necessary assistance in close co-ordination with UNDRO.

6. In exceptional or complex disasters which do not fall solely within the mandate of any single organization, for example one with both natural and man-made origins, causing both internal and external population displacements, special arrangements will be made by the Secretary-General to designate a lead entity with overall responsibility for co-ordinating the response of the UN system.

Other organizations

7. The International Committee of the Red Cross (ICRC), the League of Red Cross Societies (LRCS) and the national Red Cross and Red Crescent societies have long provided assistance to refu-

gees in emergencies. So have a great many non-governmental organizations (NGOs). These organizations often act as UNHCR's operational partners, in which case the division of responsibilities is determined by the implementing arrangements agreed between them, the government and UNHCR. Similar arrangements would set out the responsibilities of any inter-governmental or other governmental organizations involved.

The refugees

8. Beyond the right to international protection under the Statute of UNHCR and under the 1951 Refugee Convention and 1967 Protocol, if applicable, all refugees - as indeed all persons - have certain basic human rights. These are enshrined in the Charter of the United Nations and in the Universal Declaration of Human Rights: the fundamental right to life, liberty and security of person; the protection of the law; freedom of thought, conscience and religion; and the right to own property. Refugees have the right to freedom of movement, although it is recognized that, particularly in cases of mass influx, security considerations and the rights of the local population may dictate restrictions. Chapter 2, Protection, describes in more detail the rights of refugees in humanitarian law.

9. Refugees and displaced persons also have, of course, responsibilities towards the country where they have sought refuge. These are set out in Article 2 of the Convention: "Every refugee has duties to the country in which he finds himself, which require in particular that he conform to its laws and regulations as well as to measures taken for the maintenance of public order."

1.3 Principles of response

1. Whatever the framework of responsibility for a particular refugee emergency, certain prin-

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ciples of response are likely to be valid. Some of these are common themes in the chapters that follow, where they are discussed in more detail.

2. By definition, the needs of a refugee emergency must be given priority over other work of UNHCR. This is essential if the aim of ensuring protection and timely assistance is to be met. Of particular importance is the priority given to deploying enough UNHCR staff of the right calibre and experience to the right places and arming them with the authority, funds, material and logistical support needed. Leadership and flexibility are required of UNHCR in an emergency.

The measures must be appropriate

3. An appropriate response in the provision of material assistance requires an assessment of the needs of the refugees that takes into account not only their material state and the resources available, but also their culture and background and those of the nationals in whose country they are granted asylum. What is appropriate will vary with time: in the early stages of a major emergency special measures that rely heavily on outside assistance may be necessary but, as a general principle, the response should draw to the extent possible on local resources, materials and methods, and should, for example, avoid regimented refugee camps. Solutions should be sought that can be readily implemented with existing resources and simple technologies.

4. It is an important responsibility of UNHCR to determine with the government and operational partner(s) the standards of assistance that are appropriate. This requires expertise in a number of disciplines. The guidelines in chapters 6 to 11 suggest general considerations, to be modified in light of the circumstances of each emergency. What is to be decided for each sector is the correct

level of total assistance from all sources.

5. As a general principle, the standards of assistance must reflect the special needs of the refugees as a result of their condition, physical situation and experiences, while at the same time taking account of the standards enjoyed by the local population.

6. If the standards have been correctly determined, they cannot later be lowered without risk to the refugees. The refugees must, for example, receive a minimum basic food ration. The outside contribution required to meet the standards will, however, naturally be reduced as the refugees become self-sufficient.

7. A final general principle in considering the appropriateness of the measures is that from the start resources must be divided between the immediate needs and action aimed at longer-term improvements and the prevention of problems. For example, resources must be devoted to general public health measures as well as to the treatment of individual diseases, which will include many that could be prevented by better water and sanitation.

Involve the refugees and promote their self-sufficiency

8. Inherent in the foregoing is the need to involve the refugees in the measures taken to meet their needs and to plan all components of the operation in such a way as to promote their self-sufficiency. Obvious as this principle is, the pressures of an emergency often make it easier to organize a programme from the outside for, rather than with, those whom it is to benefit.

9. There are three levels to the involvement of refugees. The first is in the overall planning and organization, for example the determination of what is the best

and culturally most appropriate solution to a problem, given the constraints of the situation. This level requires that the refugees have a social organization within their community that is properly representative. As the previous social structures may have been severely disrupted, this may take time to develop but will be important to the success of the emergency operation and the future of the refugees. Meanwhile, urgent action to meet evident needs must of course be taken.

10. The second level of involvement is in the practical use of the refugees' skills and resources wherever possible for the implementation of the programme. Where suitably qualified or experienced refugees exist, such as nurses, teachers and traditional health workers, they must obviously be used. Where they do not, outside assistance should ensure that refugees are trained to take over from those who are temporarily filling the gap. The appropriateness of this is evident: the refugees themselves should run their own community services to the extent possible.

11. At the same time, other traditional skills - for example in construction or well-digging - should be harnessed. While specific measures to develop self-sufficiency will vary with each situation, their aim should always be to avoid or reduce the refugees' dependence on outside assistance. The more successful measures are generally those based on methods and practices familiar to the refugees.

12. The third level is the education of the community on life in their new situation, which may be markedly different from their previous experience. Public health education in such matters as the importance of hygiene in crowded conditions, mother and child care and the use of unfamiliar latrines is an example. As another example, if unfamiliar foods or preparation

methods have to be used, immediate practical instruction is essential. Education and guidance of this sort are best given by the refugees, with outside assistance.

13. If the emergency operation involves the refugees in this way from the start, its effectiveness will be greatly enhanced. Furthermore, such an approach will allow the refugees to maintain their sense of dignity and purpose, encourage self-reliance and help to avoid dependency.

Work for durable solutions

14. When an emergency occurs, actions taken at the very outset can have important longer-term consequences. To secure protection may be of crucial importance; intervention may be necessary to save lives, and a clear and consistent policy from the beginning will have an important long-term effect. Similarly, the immediate response of the international community to a major influx of refugees must take into account the ultimate aim of promoting a durable solution to the problem. This requires that the response both encourages the self-sufficiency of the refugees and avoids prolonged dependency on outside relief, and that it does nothing to prevent the promotion of a long-term solution as soon as possible.

15. As a general principle, the best solution is always voluntary repatriation. Where this is not possible, assimilation within the country of asylum (local settlement) is in most circumstances preferable to assimilation within another country (resettlement), particularly for large groups and in cases where resettlement would take place in a cultural environment alien to the refugees. There may, however, be situations in which resettlement is the only way to ensure protection. It is evident that resettlement is a solution that in some circumstances may effectively foreclose the possibility of voluntary repatriation.

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Monitor the effectiveness of the response

16. Whatever the nature of the emergency, the action required of UNHCR is likely to vary with time and as circumstances change. It is essential that the effectiveness of the response is kept constantly under review and action adjusted as necessary and in time. This will require sound monitoring and reporting systems, to detect deterioration or change, and also a continuous review of the aims of UNHCR's assistance, both in terms of bringing the emergency to an

early end and for the promotion of a durable solution.

17. Such monitoring must also ensure that the funds provided voluntarily to UNHCR by governments, NGOs and private individuals are being used to the best advantage. This is inherent in the principle of appropriate response. It should be borne in mind that whatever funds may be available in the early stages of an acute humanitarian emergency, the passage of time will produce financial constraints. Thus it is important that potential donors can see that the action proposed is indeed essential.

CHAPTER 2: PROTECTION

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PROTECTION

2.1 Introduction

1. In an emergency it must first be established that the persons involved are of concern to UNHCR and thus entitled to protection. The legal basis for securing this protection and its aim must be clearly understood. This chapter addresses these questions.

2. All UNHCR staff must be familiar with the key international instruments covering the protection of refugees. Of fundamental importance are the "Statute of the Office of the United Nations High Commissioner for Refugees" (General Assembly resolution 428 (V) of 14 December 1950), which sets out the High Commissioner's functions and responsibilities towards those who fall within its scope, the two universal international instruments that set out the responsibilities of States parties to them: the "1951 Convention Relating to the Status of Refugees" and the "Protocol Relating to the Status of Refugees of 31 January 1967", and on the regional level, the Organization of African Unity "Convention Governing the Specific Aspects of Refugee Problems in Africa" of 10 September 1969. The Collection of International Instruments Concerning Refugees (UNHCR, Geneva 1979), the Handbook for Determining Refugee Status (UNHCR, Geneva 1979) and the collection of Conclusions on the International protection of Refugees adopted by the Executive Committee of the UNHCR Programme are essential complementary reading.

3. The High Commissioner's protection responsibilities have been placed on him by the General Assembly. Thus the international protection activities of UNHCR are not dependant upon a request by the government concerned. These activities reflect UNHCR's universally recognized right of initiative in exercising its protection responsibilities as an entirely non-political humanitarian and social body.

4. The need for immediate action to secure protection will frequently occur before a determination of status is possible. Where those seeking refuge may be of concern to UNHCR, the Statute of the Office calls for action on their behalf. Furthermore, the aim is to secure treatment in accordance with universally recognized humanitarian principles not directly linked to the status of those in need. In short, when in doubt, act.

5. Speed of intervention to secure protection where necessary is thus the first priority. The most effective means of securing protection is a UNHCR presence where the refugees are.

6. It should be borne in mind that action taken at the outset in an emergency may have significant long-term consequences, both for continued protection, including perhaps for other groups of refugees within the country, and for the promotion of durable solutions.

2.2 Persons to whom UNHCR extends protection

1. UNHCR's fundamental task is to provide international protection to refugees and to seek permanent solutions for their problems. The need for international protection arises from the fact that refugees, unlike ordinary aliens, no longer have the protection of their former home country. The reasons for this are evident from the definition contained in UNHCR's Statute of a refugee as a person who is outside his country of origin and who, due to well-founded fear of persecution, is unable or unwilling to avail himself of that country's protection. Persons who meet this definition are refugees irrespective of whether or not they have been formally recognized as refugees by a national authority or UNHCR.

2. Persons wishing to be admitted into a country as refugees are generally described as asylum seekers. In some cases they may be

considered as refugees as a result of a group determination, as explained in paragraph 3 (2) below. If, however, a decision on a group determination cannot yet be made, which may be the case at the start of an emergency, the High Commissioner nevertheless intervenes on behalf of asylum seekers in order to ensure that they are granted at least temporary asylum, and that they are not sent back to their country of origin or to any other country where they may fear persecution, pending the determination of their refugee status and the granting of durable asylum.

3. A person's refugee status may be established in three main ways:

(1) by the High Commissioner, as the result of an individual determination that the criteria in paragraph 6 of the Statute are met,

(2) by the High Commissioner, as for (1) but for a caseload as a whole on the basis of a so-called prima facie group determination. This is common at the start of an emergency, where (1) would be impracticable,

(3) by States party to the 1951 Convention/1967 Protocol.

4. Various General Assembly resolutions have widened UNHCR's original competence to act, extending this beyond refugees within the meaning of UNHCR's Statute to:

(1) displaced persons, in the sense of persons outside their country of former habitual residence who may not necessarily qualify as refugees within the terms of the Statute but who are nevertheless in refugee-like situations,

(2) former refugees and displaced persons repatriated to their country of origin;

(3) in specific cases (subject to a request by the Sec-

retary-General or the General Assembly), persons displaced as a result of man-made disasters within the territorial limits of their country of origin.

5. These extensions of UNHCR's competence mean that the Office also has protection responsibilities towards displaced persons as described in (1). Persons described in (2) and (3) fall outside the terms of the Statute, the 1951 Convention and the 1967 Protocol. When providing assistance to persons in these categories, UNHCR nevertheless acts in the spirit of the Statute and has at least a moral responsibility to ensure that fundamental and internationally recognized humanitarian standards are adhered to.

6. There are, however, some groups of persons where caution may need to be exercised: UNHCR is not competent to intervene on behalf of active combatants and persons bearing arms. Protection of such persons may fall within the competence of the ICRC. Attention is also drawn to the exclusion clauses in Chapter II, 7(d) of the Statute relating to persons for whom there are serious reasons to consider that they have been guilty of crimes against peace, war crimes, crimes against humanity, serious non-political crimes outside the country of refuge, or acts contrary to the purposes and principles of the United Nations. It should be noted that the provisions of the Universal Declaration of Human Rights on asylum from persecution are similarly qualified by the exclusion of such persons. Persons thus excluded do not fall under the High Commissioner's competence. It is, however, unlikely that all those in a major influx would be so excluded, and when protection is clearly an urgent humanitarian need, the benefit of the doubt should be accorded at least until a considered opinion is available. Headquarters must, of course, be informed immediately of action

taken and advice sought as necessary.

2.3 The aim and action to achieve it

1. The aim of international protection is to ensure that treatment of refugees is in accordance with internationally accepted basic standards, and especially the principle of non-refoulement according to which refugees may not be forcibly returned to a country where they have reason to fear persecution. This principle figures in paragraph 1 of Article 33 of the 1951 United Nations Convention, to which acceding States may not make a reservation: "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." (Paragraph 2 of Article 33 provides for very limited exceptions for refugees reasonably regarded as a danger to the security or community of the country where they are.)

2. Before this aim can be realized, asylum seekers must of course be admitted to the State in which they seek refuge, without any discrimination as to race, religion, nationality, political opinion or physical incapacity. "Everyone has the right to seek and to enjoy in other countries asylum from persecution" (Universal Declaration of Human Rights, Article 14 (1)). Operative paragraph 2 of General Assembly Resolution 428(V), adopting the Statute, calls on governments to co-operate with the High Commissioner in the performance of his functions, inter alia, by "admitting refugees to their territories".

3. Thus when an influx of persons who may be of concern to UNHCR occurs, the overriding priority is to ensure that at least temporary asylum is granted to

them. An on-the-spot presence and quick action are generally crucial to the attainment of UNHCR's objectives, particularly where there is danger of refoulement or abuses of human rights such as arbitrary detention or mistreatment. It should be noted that UNHCR does not, as a principle, favour the granting of merely temporary asylum or refuge, preferring rather to emphasize the need to grant durable asylum. However, this may not be immediately possible, and Representatives and field officers may decide that in the circumstances only temporary asylum should be requested, without prejudice to subsequent efforts to obtain durable asylum.

4. The conclusions of the Expert Group on Temporary Refuge in Situations of Large-Scale Influx which met in Geneva from 21-24 April 1981 state that it is essential that after admission asylum seekers should be treated in accordance with the following minimum basic human standards:

(a) they should not be penalized or exposed to any unfavourable treatment solely on the ground that their presence in the country is considered unlawful and they should not be subjected to restrictions on their movements other than those which are necessary in the interests of public health and order;

(b) they should enjoy the fundamental rights internationally recognized, in particular those set out in the Universal Declaration of Human Rights;

(c) they should be treated as persons whose tragic plight requires special understanding and sympathy; they should receive all necessary assistance and they should not be subject to cruel, inhumane or degrading treatment;

(d) there should be no discrimination on the grounds of race, religion, political opinion, nationality or country of origin;

(e) they are persons before the law enjoying free access to courts of law and other competent administrative authorities;

(f) the location of asylum-seekers should be determined by their safety and well-being as well as by the security needs of the receiving State. Asylum-seekers should, as far as possible, be located at a reasonable distance from the frontier of their country of origin. They should not become involved in subversive activities against their country of origin or any other State;

(g) they should be provided with the basic necessities of life including food, shelter and basic sanitary and health facilities;

(h) family unity should be respected;

(i) all possible assistance should be given for the tracing of relatives;

(j) adequate provision should be made for the protection of minors and unaccompanied children;

(k) the sending and receiving of mail should be allowed;

(l) material assistance from friends or relatives should be permitted;

(m) appropriate arrangements should be made, where possible, for the registration of births, deaths and marriages;

(n) they should be granted all the necessary facilities to enable them to obtain a satisfactory durable solution;

(o) they should be permitted to transfer assets which they had brought into the territory to the country where the durable solution is obtained; and

(p) all steps should be taken to facilitate voluntary repatriation.

5. The same conclusions continue: "Asylum-seekers shall be entitled to contact the Office of UNHCR. UNHCR shall be given access to asylum seekers. UNHCR shall also be given the possibility of exercising its function of international protection and shall be allowed to supervise the well-being of persons entering reception or other refugee centres."

6. These conclusions were endorsed by the forty States Members of the Executive Committee of the High Commissioner's Programme at the Committee's 32nd Session. The standards reproduced above should form the basis and framework for action by UNHCR, and particularly by field officers, to ensure protection in an emergency. Some of the international instruments that may be invoked are discussed in the next section. Actual courses of action to secure the rights described in this chapter are outlined in Part 2.

2.4 International instruments

1. In addition to the Statute, 1951 Convention and 1967 Protocol, there are a number of international instruments that may help protect refugees. In all circumstances, the Charter of the United Nations and the Universal Declaration of Human Rights place certain general obligations on Member States of the United Nations of particular relevance to UNHCR's international protection function. The Charter and Universal Declaration are the two best known and least challenged of the expressions of humanitarian principle that may be invoked by UNHCR, reaffirming as they do faith in fundamental human rights, the principles of justice and international law and the equality of all before the law.

2. Attention may also be drawn to the International Covenants on human rights, and in particular paragraph 1 of Article 2 of the International Covenant on Civil and Political Rights:

"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 recognized 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."

3. The principle of non-refoulement has found specific expression in various international instruments adopted at the universal or regional levels. The principal instruments are the United Nations Declaration on Territorial Asylum, the Final Act of the United Nations Conference on the Status of Stateless Persons, the OAU Refugee Convention, and the American Convention on Human Rights. For example:

"No person (entitled to invoke article 14 of the Universal Declaration of Human Rights) shall be subjected to measures such as rejection at the frontier or, if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any State where he may be subjected to persecution." U.N. Declaration of Territorial Asylum, adopted by G. A. resolution 2312 (XXII), 1967, Article 3, para. 1.

"In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions." American Convention on Human Rights ("Pact of San José, Costa Rica"), 1969, Article 22, paragraph 8.

4. Instruments for the benefit of refugees established at the regional level have important implications for UNHCR's protection function. A notable example is the

OAU Convention, under which the term "refugee" is defined in Article 1 not only as in the Statute of the Office, 1951 Convention and 1967 Protocol but, more broadly, as applying:

"to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality."

In this particular case the wider definition of the term "refugee" is broadly consistent with the term "displaced person" as used in paragraph 2.2.4 (1) and has the same implication for UNHCR's protection responsibility. Where both universal and regional instruments with different definitions or provisions apply, UNHCR should seek to ensure that the more liberal is followed.

5. In countries that are parties to the relevant instrument(s) UNHCR's protection function is naturally facilitated. Article 35 of the 1951 Convention obliges States parties to the Convention to co-operate with UNHCR in the exercise of its functions and in particular to facilitate UNHCR's duty of supervising the application of the Convention's provisions. Even when an emergency occurs in a country not party to the international instruments, these may nevertheless be brought to the attention of the government, for they define standards of treatment which are internationally recognized, as evidenced by the large numbers of Contracting States. Similarly, the moral strength of conclusions of the Executive Committee is not limited to States Members, for the Members are elected by and act on behalf of the international community as a whole.

2.5 The Geneva Conventions and Protocols and the International Committee of the Red Cross (ICRC)

1. The ICRC, as a promoter of international humanitarian law, plays an important role in reinforcing the international protection of refugees and displaced persons, particularly in situations of armed conflict: protection of refugees is an important preoccupation of international humanitarian law applicable in armed conflicts. In addition to the functions of supervision entrusted to the Protecting Powers by the four Geneva Conventions of August 1949 and their additional Protocols of 1977, the ICRC is also entitled to visit and assist all the persons protected by the Conventions. It may even assume the humanitarian tasks imparted to the Protecting Powers by the Conventions whenever no such Powers could be designated.

2. Refugees and displaced persons are protected persons under the Fourth Geneva Convention when they "find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals". This Convention further provides for the reunion of dispersed families, for the supervision of all places where protected persons are, and for general humanitarian activities.

3. Article 44 of the Fourth Convention provides:

"In applying the measures of control mentioned in the present Convention, the Detaining Power shall not treat as enemy aliens exclusively on the basis of their nationality de jure of an enemy State, refugees who do not in fact enjoy the protection of any government." (emphasis added)

4. Article 70 of the Fourth Geneva Convention, dealing with

offences committed before occupation, also provides:

"Nationals of the Occupying Power who, before the outbreak of hostilities, have sought refuge in the territory of the occupied State, shall not be arrested, persecuted, convicted or deported from the occupied territory, except for offences under common law committed before the outbreak of hostilities which, according to the law of the occupied State, would have justified extradition in time of peace." (emphasis added)

Persons who fled their home country before the outbreak of hostilities and found refuge or asylum in the occupied country thus rank as refugees.

5. The relevant provisions were further strengthened by Article 73 of Protocol I additional to the Geneva Conventions and relating to the protection of victims of international armed conflicts, which states:

"Persons who, before the beginning of hostilities, were considered as stateless persons or refugees under the relevant international instruments accepted by the Parties concerned or under the national legislation of the State of refuge or State of residence shall be protected persons within the meaning of Parts I and III of the Fourth Convention, in all circumstances and without any adverse distinction." (emphasis added)

6. Concerning the reunification of dispersed families, Article 26 of the Fourth Geneva Convention provides:

"Each Party to the conflict shall facilitate enquiries made by members of families dispersed owing to the war, with the object of renewing contact with one another and of meeting, if possible. It shall encourage, in particular, the work of organizations engaged on this task provided they

are acceptable to it and conform to its security regulations." (emphasis added)

This Article is concerned with the re-establishment of family ties and therefore applies solely to members of dispersed families. The parties to the conflict not only must allow members of dispersed families to make enquiries, they must facilitate such enquiries. The main aim of this Article is the safeguarding of family unity and the re-establishment of contacts between members of a family group. The obligations on the parties in this regard are reaffirmed and reinforced in Article 74 of the Additional Protocol I.

7. Concerning the supervision of places where protected persons are, Article 143 of the Fourth Geneva Convention, inter alia, provides:

"Representatives or delegates of the Protecting Powers shall have permission to go to all places where protected persons are, particularly to places of internment, detention and work.

"They shall have access to all premises occupied by protected persons and shall be able to interview the latter without witnesses, personally or through an interpreter.

"The delegates of the International Committee of the Red Cross shall also enjoy the above prerogatives."

Owing to the role it plays in armed conflicts, the ICRC can

therefore sometimes visit detainees who are of concern to the High Commissioner but to whom UNHCR representatives may have no access. These visits, which can have great humanitarian value, are a direct complement to the action of UNHCR.

8. Concerning general humanitarian activities, Article 10 of the Fourth Convention provides:

"The provisions of the present Convention constitute no obstacle to the humanitarian activities which the International Committee of the Red Cross or any other impartial humanitarian organization may, subject to the consent of the Parties to the conflict concerned, undertake for the protection of civilian persons and for their relief."

The above Article allows any initiative or activity that may appear necessary for the benefit of protected persons, even if not explicitly or implicitly foreseen by the Convention. Such right of initiative granted to the ICRC or to any other impartial humanitarian organization is considered as a prerogative of utmost importance by the International Red Cross.

9. Close working relationships and regular consultations exist between the ICRC, the League of Red Cross Societies and UNHCR in matters of common interest. It should be noted that the services of the ICRC Central Tracing Agency (see chapter 11) and ICRC travel documents can be a valuable source of protection for refugees.