

PROTECTION IN A CAMP SETTING



KEY MESSAGES

- ▶ Host governments are responsible for protecting the rights of refugees, stateless and internally displaced persons (IDPs) on their territory. Protection agencies have been mandated to assist States in fulfilling their protection obligations.
- ▶ Camp Management Agencies are responsible and accountable for working together with authorities and protection actors to ensure the protection of displaced populations living in camps.
- ▶ A Camp Management Agency needs to be aware of the rights to which camp residents are entitled. They also need an understanding of the barriers to fully enjoying them.
- ▶ Protection in a camp setting involves making informed decisions concerning the appropriate monitoring, referral and reporting of human rights violations, with due regard for confidentiality, security, accountability and response capacity. The Camp Management Agency has a role to play supporting protection agencies in this regard.
- ▶ Protection in a camp setting involves an attitude and a set of activities which ensure protection is mainstreamed in the delivery of services and assistance.
- ▶ The role of a Camp Management Agency involves working with protection agencies and Sector/Cluster Lead to support advocacy at all levels for the rights of the displaced to be upheld. This includes advocating for the development of a functioning and effective law enforcement mechanism in the camp.

INTRODUCTION

! Protection is defined by the International Committee of the Red Cross (ICRC) as: “All activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. international human rights, humanitarian law and refugee law).”

Protection activities in a camp should ensure that refugees and IDPs enjoy, without discrimination:

- physical security – protection against physical harm
- legal security – including access to justice, a legal status and documentation to prove it and respect for property rights
- material security – equal access to basic goods and services.

States have an obligation to respect, protect and fulfil the rights of everyone who is within their jurisdiction, including non-citizens, in accordance with applicable national and international law. For the protection of camp residents to be achieved, refugees and IDPs should be treated in accordance with standards in international human rights and refugee law as well as international humanitarian law. In order to ensure protection, the Camp Management Agency should be aware of the rights to which camp residents are entitled and which may be at risk due to the camp setting, the circumstances of displacement, or the way assistance programmes are implemented.

Rights

While human rights are universal and inalienable, indivisible, interdependent and interrelated, the following rights may be particularly relevant within a camp setting. Some of these rights apply to all persons, whereas others relate to specific groups (e.g. children or refugees):

RIGHTS THAT APPLY TO ALL PERSONS	RIGHTS WHICH ARE SPECIFIC TO CERTAIN GROUPS
<ul style="list-style-type: none"> • The right to life • The right to non-discrimination • Freedom from torture or other cruel, inhuman or degrading treatment or punishment • Freedom from arbitrary arrest and detention • Freedom from enforced disappearance • The right to seek and enjoy asylum • The right to equal recognition of and protection before the law • The right to an effective remedy • Freedom of movement • The right to family life and the principle of family unity • The right to be registered at birth • The right to an adequate standard of living, including adequate food, clothing, and housing, • The right to work • The right to the enjoyment of the highest attainable standard of health • The right to education • The right to participation 	<ul style="list-style-type: none"> • The right to special protection for a child deprived of his or her family environment • Freedom from child abduction and trafficking • Freedom from underage recruitment • The prohibition of child labour • The prohibition of refoulement (forced return of a refugee to place of origin) • The right of refugees to an identity document

Protection Risks

Typical protection risks arising in a camp setting include, amongst others:

- attacks on civilians by parties to the conflict
- presence of armed elements in the camp
- child recruitment
- gender-based violence (GBV)
- abuse, neglect and exploitation of children
- risk deriving from family separation, particularly for children, the oldest or other community members who rely on family support for their survival
- presence of landmines around the camp
- common crime
- inadequate law enforcement
- conflicts within the camp population and with host communities.

- absent or inadequate birth registration mechanisms
- obstacles in accessing identity or other documents
- lack of access to fair and efficient justice systems
- restrictions to freedom of movement and choice of residence
- limited participation in camp management by certain portions of the camp population
- discriminatory access to basic provisions and services – water, food, shelter, basic health services particularly for persons with specific needs (e.g. as a result of poorly planned distribution mechanisms)
- limited access to livelihood activities.

KEY ISSUES

PROTECTION FOR WHOM?

Whilst basic human rights apply to all persons regardless of their legal status, be they IDPs, refugees, stateless persons, or any other person, some rights apply differently to nationals and non-nationals. Refugees and stateless persons do not necessarily enjoy certain rights to the same extent as nationals. The protection agency can provide the necessary analysis.

Therefore the Camp Management Agency should:

- know the legal status of persons living in the camp
- be familiar with what national and international laws are applicable
- be aware that this can impact on some of the rights and entitlements of the overall camp population
- know which legal tools are applicable to the camp population to better promote their rights.

Refugees

A refugee is any person who is outside his or her country of nationality, or if stateless, outside his or her country of habitual residence, and is unable to return there owing to:

a well-founded fear of persecution for reasons of race, religion, nationality, membership in a particular social group or political opinion, serious and indiscriminate threats to life, physical integrity or freedom resulting from generalised violence or events seriously disturbing public order.

The main international legal instrument related to the status and rights of refugees is the *1951 Convention relating to the Status of Refugees* and its *1967 Protocol* (1951 Convention). Regional instruments relevant to refugees include the *Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa* (1969) and the *Cartagena Declaration on Refugees* (1984).

The cornerstone of refugee law is the principle of *non-refoulement*, which states that a refugee should not be returned in any manner to the country where his/her life or freedom would be threatened on account of his/her race, religion, nationality, membership of a particular social group or political opinion. It is important to know, this principle is also part of customary international law and thus legally binding on all States.

Internally Displaced Persons (IDPs)

IDPs are people who have been forced to flee their homes as a result of armed conflict, situations of generalised violence, violations of human rights or natural or man-made disasters and who have not crossed an internationally recognised State border. Most often they are citizens of that country, although they may also be non-national habitual residents.

Under the national legislation of the country in question there may or may not be a specific legal status for IDPs. They are however entitled to the same protection by the national authorities as any other citizen or habitual resident.

There are no specific international conventions related to IDPs. However, the *Guiding Principles on Internal Displacement*, issued in 1998, provide an authoritative framework for the identification of the rights, guarantees, and standards relevant to the protection of individuals in situations of internal displacement. They reflect and are consistent with international human rights and humanitarian law and refugee law by analogy.

! **What distinguishes a refugee from an IDP?** The main difference between an IDP and a refugee is that IDPs have not crossed an international State border, whereas refugees have left the country of their nationality (or country of habitual residence if they are stateless). In some cases, parts of the territory of a State may not be under the control of the central authorities and entities exercising control over such parts of the country may have made unilateral declarations of independence. **▶▶**

People moving from the territory under the control of the central authorities to that controlled by de facto entities do not cross an international border and can therefore not be considered as refugees.

Why is there no need for a separate IDP status? The IDP definition is a descriptive definition rather than a legal definition. It simply describes the factual situation of a person being uprooted within his/her country of habitual residence. It does not confer a special legal status in the same way that recognition as a refugee does. This is not necessary for IDPs because, unlike refugees who require being formally recognised as such by the country of asylum or UNHCR under its mandate, IDPs remain entitled to all the rights and guarantees as citizens and other habitual residents of a particular State. In some countries, national law may have introduced a legal status.

If we register IDPs are we granting legal status? Registering a camp population does not mean granting a legal status. Registration is a way to identify the camp population and is used to organise protection and assistance activities. States which in their national legislation confer to IDPs a legal status will have put in place procedures and strict criteria.

Stateless Persons

Stateless persons are those who are not considered to be nationals of any State. In many circumstances, stateless persons have no legal status in the country in which they are habitually resident and are without effective national protection. Although entitled to a legal status under the 1954 *Convention Relating to the Status of Stateless Persons*, this Convention has not been ratified by a large number of States.

In situations of displacement, stateless persons may become even more vulnerable. If persons among the IDP population are stateless, they may face discrimination when it comes to accessing rights generally available to nationals; e.g., registration of their children at birth or access to other forms of documentation.

Stateless persons may also be among the refugee population. If they meet the definition of refugee as noted above, they are also entitled to refugee status and the same rights such status carries with it.

! Protection in Practice: Protecting Human Rights, Why?

Protection Officers and Camp Management Agencies are generally familiar with the range of human rights which camp residents are entitled to and are increasingly able to identify activities which help to ensure that their rights are respected.

Experience from the field shows that the consequences of a lack of protection are many and complex, but here is one practical example:

It is not uncommon that IDPs are not able to exercise their right to work during displacement. The reasons can be both legal and practical. Perhaps they have lost their identity documents. They may be displaced to a place where they are unable to engage in their normal livelihoods (e.g fishermen displaced inland) or to somewhere where the local community will not allow them to work and are discriminating against them. Perhaps they have lost their tools during flight or were not able to bring them with them. Or there may simply not be enough work to go round.

For adults who are used to earning an income and supporting their own families, unemployment is extremely frustrating and disempowering. It is not unusual to see a rise in alcohol use, drug abuse and domestic violence as a result of protracted unemployment.

PROTECTION BY WHOM?

Host governments are responsible for protecting and promoting the rights of all persons staying on their territory. Sometimes they are unable to fulfil these obligations as they lack capacity or resources. There may also be cases where the national authorities are unwilling to respect, protect and fulfil the rights of certain groups of persons.

The international community has mandated a number of organisations to support governments to fulfil their obligations. These agencies have a specific expertise in protection. The four main mandated protection agencies that the Camp Management Agency may encounter in the field are:

- The Office of the United Nations High Commissioner for Refugees (UNHCR)
- The United Nations Children's Fund (UNICEF)
- The Office of the United Nations High Commissioner for Human Rights (OHCHR)
- The International Committee of the Red Cross (ICRC).

Office of the United Nations High Commissioner for Refugees (UNHCR)

UNHCR is mandated by the UN to lead and coordinate international action for the worldwide protection of refugees and the resolution of refugee problems. UNHCR's primary purpose is to safeguard the rights and well-being of refugees. In its efforts to achieve this objective, UNHCR strives to ensure that everyone can exercise the right to seek asylum and find safe refuge in another state, and to return home voluntarily. By assisting refugees to return to their own country or to settle permanently in another country, UNHCR also seeks lasting solutions to their plight. By consolidating the reintegration of returning refugees in their country of origin, it averts the recurrence of refugee-producing situations.

UNHCR has also received a global mandate to work in cooperation with other relevant partners for the identification, prevention, and reduction of statelessness and to further the protection of stateless persons. Following the humanitarian reform, UNHCR has been designated as the Cluster Lead Agency for protection of IDPs at the global level. At a country level UNHCR has agreed to take the lead of the protection cluster in situations of complex emergencies.

UNHCR's efforts are mandated by the organisation's statute, and guided by the *1951 United Nations Convention Relating to the Status of Refugees and its 1967 Protocol*. International refugee law provides an essential framework of principles for UNHCR's humanitarian activities.

Protection of IDPs

Providing protection and assistance to IDPs is first and foremost the responsibility of the State and its institutions. The international community has, however, an important supporting role to play. The scale of crises and the scope of human suffering call for a wide-ranging humanitarian response that lies beyond the mandate or capacity of any single agency or organisation. A joint, or collaborative, effort by a range of human rights, humanitarian, developmental, political and other actors is required, which needs coordination.

As part of the recently launched humanitarian reform process, the cluster approach was introduced as a mechanism to enhance predictability and accountability in the protection of IDPs. A cluster is essentially a sector group. Eleven global clusters have been set up, including a protection cluster. At a global (headquarters) level the protection cluster is led by UNHCR. Within the protection cluster,



the following five areas of responsibility have been identified and assigned to a specific agency – rule of law (UNDP/OHCHR), gender-based violence (UNFPA), child protection (UNICEF), mine action (United Nations Mine Action Service – UNMAS), land, housing and property (UNHABITAT).

At a country level, UNHCR will be the Protection Cluster Lead in situations of complex emergencies. In case of natural disasters, UNICEF, UNHCR and OHCHR will consult and determine the most appropriate leadership structure.

The Cluster Lead should establish interagency coordination mechanisms, ensure that assessments and strategies are in place, coordinate action with the authorities, ensure that participatory and community-based approaches are used in all needs assessments, analyses, planning, monitoring and response, and promote the integration of cross-cutting issues into all activities. The Cluster Lead acts as both a “first point of call” for the Humanitarian Coordinator (HC) and “provider of last resort”. The Lead Agency is not expected to carry out all required activities in a cluster. However, where critical gaps exist, it is responsible for filling such gaps, provided that access, security and resources allow.

►► *For more information on the Cluster Approach see chapter 1 and appendix 2.*

The United Nations Children’s Fund (UNICEF)

UNICEF is mandated by the UN General Assembly to advocate for the protection of children’s rights, to help meet their basic needs and to expand their opportunities to reach their full potential. UNICEF is guided by the Convention on the Rights of the Child and strives to establish children’s rights as enduring ethical principles and international standards of behaviour towards children. UNICEF insists that the survival, protection and development of children are universal development imperatives that are integral to human progress. UNICEF is committed to ensuring special protection for the most disadvantaged children – victims of war, disasters, extreme poverty, violence and exploitation and those with disabilities. UNICEF responds in emergencies to protect the rights of children from violence, abuse and exploitation. UNICEF promotes children’s rights through programmes focusing on children’s health, nutrition, education, training and social services.

Office of the United Nations High Commissioner for Human Rights (OHCHR)

The mission of the OHCHR is to work for the protection of all human rights for all people, to help empower people to realise their rights and to assist those responsible for upholding such rights to ensure they are implemented.

Operationally, OHCHR works with governments, legislatures, courts, national institutions, civil society, regional and international organisations and the UN system to develop and strengthen capacity, particularly at the national level, for the protection of human rights in accordance with international norms. Institutionally, OHCHR is committed to strengthening the UN human rights programme and to providing it with the highest quality support. OHCHR is committed to working closely with its UN partners to ensure that human rights form the bed-rock of the work of the UN.

The International Committee of the Red Cross (ICRC)

As an independent and neutral humanitarian organisation, the ICRC is mandated to protect and assist persons affected by international and non-international armed conflict, internal disturbances and other situations of internal violence. To achieve this it has:

- rapid deployment capacity
- capacity to operate in emergencies and insecurity
- bilateral, confidential dialogue with all parties to a conflict to persuade them to meet IHL obligations
- neutral intermediary capacity between parties to the conflict
- concern for the full spectrum of displacement (from prevention, to addressing protection and assistance needs during displacement and promoting voluntary return when conditions allow)
- independent needs assessments as basis of impartial response
- flexible and multi-disciplinary response capacity, addressing both protection and assistance needs
- provision of direct services and material aid including a range of assistance activities (health, water, habitat, and economic security interventions), restoration of family links, mine action programmes etc, as per need
- promotion of self-reliance to prevent displacement or improve local population's capacity to host IDPs.

! Where armed violence or natural disasters lead to the displacement of populations and the separation of families, the ICRC can organise tracing services in collaboration with the national Red Cross or Red Crescent Society. They may be encouraged to come regularly to the camp or to establish a permanent presence there, in order to assist the camp population in tracing their families and to remain in contact with family members that live in areas that are cut off by the conflict. ICRC works closely with UNICEF to provide tracing and reunification services for children and adolescents.

Non-Mandated Protection Agencies

Non-mandated protection agencies are national or international non-governmental organisations. A number of them participate in the work of the global Protection Cluster Working Group. They play an invaluable role in strengthening international protection. NGOs are often in a prime position to monitor and report on violations of human rights. Non-mandated agencies may focus on specific rights (e.g. freedom of expression, the right to education, the right to health) or specialise in providing assistance and capacity-building to selected groups – including children, persons with disabilities, older people, refugees and/or IDPs. A non-mandated protection agency acting as a Camp Management Agency can improve and monitor the protection of the displaced by the activities outlined later in this chapter.

PROTECTION AGENCIES AND REFERRALS: WHO DOES WHAT?

In many settings different protection agencies may be operating in the camp, including UNHCR, UNICEF, OHCHR, ICRC or NGOs. In these circumstances, regular sectoral meetings on protection should take place in order to disseminate and exchange information and ensure the coordination of protection activities and responses.

The Camp Management Agency has a vital role to play in sharing information on protection problems and risks and in ensuring that protection information is likewise shared and followed-up with the camp population. Knowing the key protection staff from these agencies or organisations, the way that their mandate aims to help the camp population, and what programmes they are responsible for in the camp, will help in efficient coordination. It will also support the Camp Management Agency to work in an accountable way with the camp population,

who have a right to information and to know what response or follow-up they can expect when information on protection issues is shared.

Although each context will be different, the agencies with particular areas of expertise are:

AGENCY	AREA OF EXPERTISE AND ACTIVITIES WITH DISPLACED PERSONS
<p>UNHCR United Nations High Commissioner for Refugees www.unhcr.org</p>	<ul style="list-style-type: none"> • refugee protection • profiling and/or registration • camp coordination • community mobilisation and empowerment activities • measures to prevent and respond to specific protection risks, including gender-based violence, forced displacement or forced return, lack of documentation and HIV/AIDS. • provision of emergency assistance to address urgent protection needs • emergency and transitional shelter • protection/returnee monitoring and reporting • technical advice on the development of national policies, strategies and legislative reform relating to displacement • training and capacity-building of national authorities, civil society, displaced communities, and humanitarian workers on protection standards and issues • advocating for durable solutions for refugees and IDPs and providing support in implementing them • advocacy on protection • inter-agency coordination of protection-related activities, including assessments, strategy development, project implementation, monitoring, and evaluation.
<p>OHCHR Office of the High Commissioner for Human Rights www.ohchr.org</p>	<ul style="list-style-type: none"> • monitoring of and reporting on the human rights situation, including the situation of IDPs and returnees • advocacy for the protection needs of displaced persons through engagement with national authorities and through the support of Special Rapporteurs, Working Groups and Independent Experts of the Human Rights Council

AGENCY	AREA OF EXPERTISE AND ACTIVITIES WITH DISPLACED PERSONS
<p>OHCHR Office of the High Commissioner for Human Rights www.ohchr.org</p>	<ul style="list-style-type: none"> • human rights investigations, OHCHR fact-finding missions and international commissions of inquiry • assist in the design and implementation of human rights capacity and institution building initiatives aimed at ensuring effective protection of the rights of displaced persons • monitor through Treaty Bodies mechanisms, the implementation by States parties of their human rights obligations under the treaties • briefings to the Security Council by the High Commissioner as well as the Special Procedures of the Human Rights Council on specific human rights situations
<p>UNICEF United Nations Children's Fund www.unicef.org</p>	<ul style="list-style-type: none"> • conducts a rapid assessment of the situation of children and women • assists in preventing the separation of children from their caregivers, and facilitate their identification, registration and medical screening • ensures that family-tracing systems are implemented with appropriate care and protection facilities • prevents sexual abuse and exploitation of children and women by: (i) monitoring, reporting and advocating against instances of sexual violence and other forms of systematic abuse, violence and exploitation; and (ii) providing post-rape health and psychosocial care and support • provides support for the care and protection of orphans and other vulnerable children • supports the establishment of safe environments for children and women, including child-friendly spaces • integrates psychosocial support in education and protection responses • works directly or through partners – and in accordance with international legal standards – to: (i) monitor, report on and advocate against the recruitment and use of children in any capacity during armed conflicts; (ii) seek commitments from parties to refrain from recruiting and using children; (iii) negotiate the release of children who were recruited and introduce demobilisation and reintegration programmes.

AGENCY	AREA OF EXPERTISE AND ACTIVITIES WITH DISPLACED PERSONS
<p>UNICEF United Nations Children's Fund www.unicef.org</p>	<ul style="list-style-type: none"> • supports the development and implementation of mine risk education (MRE) projects. • support justice for children initiatives in emergencies • establishes community-based child protection systems.
<p>UNDP United Nations Development Programme www.undp.org</p>	<ul style="list-style-type: none"> • ensure access to justice and legal aid, including professional lawyers' networks as well as paralegal aid for displaced populations • supports customary law mechanisms and peaceful conflict resolution at community level • encourage community policing • build capacity of State rule of law institutions • training judges, prosecutors, lawyers, police and security forces; armed forces, non-state armed actors; civil society; displaced populations and traditional leaders • promote legal and constitutional reform • encourage civilian oversight of justice and security institutions • support legal literacy, community education and confidence- building between citizens and rule-of-law service providers • establish legal information centres and raise awareness • support minor rehabilitation and provision of basic operational tools to rule of law actors/institutions.
<p>UNFPA United Nations Population Fund www.unfpa.org</p>	<ul style="list-style-type: none"> • IDP profiling and data collection methodology • measures to prevent and respond to specific protection risks, including GBV and HIV/AIDS • technical guidance and advice on the development of national legislation and policies relating to GBV • training and capacity-building of national authorities, civil society, IDP communities, and humanitarian workers on GBV and reproductive health issues • facilitation of temporary shelters for survivors of GBV • support to providing post-rape treatment • support to providing post-exposure prophylaxis (PEP) to survivors of rape.

AGENCY	AREA OF EXPERTISE AND ACTIVITIES WITH DISPLACED PERSONS
<p>UNMAS United Nations Mine Action Service www.mineaction.org</p>	<ul style="list-style-type: none"> • mine clearance and removal of unexploded ordnance and other explosive remnants of war (ERW) • provision of mine risk education and awareness training for civil society, displaced communities and humanitarian workers • provision of ERW and landmine threat information.
<p>ICRC International Committee of the Red Cross www.icrc.org</p>	<ul style="list-style-type: none"> • bilateral, confidential dialogue with all parties to a conflict to persuade them to meet IHL and other legal obligations • independent needs assessments as basis of impartial response • flexible and multi-disciplinary response capacity, addressing both protection and assistance needs • provision of direct services and material aid including multi-sectoral assistance activities (health, water, habitat, and economic security interventions), registering persons at risk • restoration of family links, tracing those who have disappeared, accompaniment, evacuation of persons, mine action programmes, • advice for improving national laws, efforts to improve knowledge of IHL • promote/support self-reliance to prevent displacement and/or improve local population capacity to host displaced.

! All of these agencies or NGOs with an expertise in protection, can be called upon to provide training and information sessions to Camp Management staff, or other actors (i.e. police or security services), or the camp population on the protection issues covered under their mandates.

PROTECTION ACTIVITIES FOR A CAMP MANAGEMENT AGENCY

The Camp Management Agency has a role in supporting the competent authorities at a local/camp level in fulfilling their protection obligations. Their support is also fundamental for protection agencies and other NGOs and service providers. The Camp Management Agency should ensure that relevant protection matters in the camp are brought to the attention of the national authorities or the competent organisation (Protection Lead Agency or mandated agencies) and that responses and solutions are put in place.

A Camp Management Agency's role in protection can be exercised at different levels, including:

- monitoring compliance with relevant law, bringing attention to shortfalls and violations in close coordination with the Protection Lead Agency
- conducting training to disseminate knowledge of relevant law to rights-holders, and duty bearers – including security forces, police and peace-keepers – in close coordination with the Protection Lead Agency
- conducting situational analysis of the protection risks faced by the camp population
- implementing preventive measures through ensuring the planned provision of assistance and services
- creating a safe environment by reducing the likelihood of protection risks from occurring
- supporting response mechanisms to address protection incidents
- monitoring and evaluation

Monitoring Compliance with Relevant Law and bringing attention to shortfalls and violations should be undertaken in close consultation with the Protection Lead. The extent of involvement by the Camp Management Agency will vary on the circumstances and may include:

- monitoring and coordinating the provision of humanitarian assistance, services and camp security
- monitoring and recording incidents involving alleged violations of human rights enshrined in national or international law under guidance of mandated agencies or the Protection Lead and advocating accordingly
- assisting the Protection Lead in enhancing the system for the administration of justice in the camp (see box below).

Conducting Training to Disseminate Knowledge of relevant law to rights-holders, and duty bearers – and selecting participants and deciding content – should be discussed in advance with the Protection Lead. The following groups, if present in or around a camp may be targeted:

- the camp population – including camp leaders and representatives
- the host population
- local authorities
- military authorities
- humanitarian actors, including Lead Agencies and national and international service providers.

Conducting Situational Analysis. To be effective, Camp Management Agencies need to have a fairly good understanding of the protection risks faced by the camp community. For this purpose they should:

- know the profile of the camp population by age and gender and know which groups have specific needs
- take part in participatory assessment to identify the protection concerns and risks in and around the camp and to assess existing support services, resources and capacities, including those of the community
- attend participatory workshops and working groups where protection needs are discussed and prioritised and required interventions agreed upon
- map out the protection support and activities which agencies and NGOs provide in the camp with a view to identifying possible gap areas.

Implementing Preventive Measures. Timely, fair and participatory provision of humanitarian assistance and services is a key aspect of the protection of displaced persons. Methods by which assistance and services are delivered may either create or prevent protection risks. Ensure that:

- food and non-food items are distributed in an organised and accessible way which allows for the safe and equal access by all, while taking into account the specific needs of certain groups
- participation of the camp population including women, men, girls and boys of all ages is integrated into the design of all programmes and that they are involved during their monitoring and management
- continuous monitoring and evaluation is in place, to ensure that access by certain groups, such as older persons, persons with disabilities, women and children, is not impeded either deliberately – for example, by some gaining unfair control of distribution – or unintentionally – for example if distribu-

tion points are not accessible to all. If not carefully monitored, assistance distribution mechanisms may also expose members of the camp population to sexual exploitation and abuse by those in control of the distribution, including by humanitarian workers.

- ▶▶ *For more information on groups with specific needs see chapters 10 and 11.*
- ▶▶ *For more information on equitable distributions of food and non-food items, see chapter 13.*
- ▶▶ *For more information on participation of the camp population see chapter 3.*

Creating a Safe Environment by Reducing the Likelihood of Protection Risks

Inclusive community participation and empowerment can help to prevent protection risks. Some possible activities by Camp Management Agencies include:

- informing the population in the camp of their rights and obligations. Community sensitisation on humanitarian assistance and camp codes of conduct are good methods of informing the camp population about their rights
- integrating a protection perspective into all programmes and activities in the camp which are under the responsibility of the Camp Management Agency

! Often referred to as ‘protection mainstreaming’ a Camp Management Agency should ensure that a protection perspective is integrated across technical sectors and all activities in the camp. This involves focusing on protection throughout the project cycle in the assessment, planning, implementation, monitoring and evaluation of activities. For example, planning distribution would need to incorporate a focus on groups unable to come to the distribution centre. Monitoring a Water, Sanitation and Hygiene (WASH) programme might entail a focus on safety and security when using latrines at night. An education project might evaluate the protection impact of education on, for example girls between the ages of 13 and 18.

- supporting the setting up a proper registration/profiling system to determine the demographic breakdown and profiles of camp residents
- coordinating with other sectors/service providers to ensure that facilities and services set up in the camp recognise and prevent protection problems

- working with the competent national authorities and the responsible protection organisations to set up a system for birth and death registration and issuance of birth/death certificates
- establishing a community-based mechanism to identify individuals with specific needs or vulnerabilities and monitor their situation throughout their time in the camp.

▶▶ *For more information on registration and profiling, see chapter 9.*

▶▶ *For more information on coordination techniques, see chapter 4.*

! Protection in Practice: Birth, Marriage and Death Registration

A birth certificate is a key document in most countries to prove your age and who you are. Birth certificates are one of a range of documents that can give you your legal identity. Depending on the country you were born in, birth certificates can be crucial as:

- Some countries do not allow children to attend school without a birth certificate.
- Some countries require a birth certificate for national examinations.
- Birth certificates are often required to get a driving licence, a passport and a national identity card.
- In some countries you need to show your birth certificate to pass checkpoints.
- You may need to show your birth certificate (or another document such as a national identity card obtained with your birth certificate) to vote.
- Depending on the citizenship laws of your country, you may need your birth certificate to prove you are a national.

What about marriage certificates? Not all countries register marriage formally and some recognise ‘common-law’ marriage, which means that where a couple live together and have a sexual relationship they are considered legally married, even if they do not have a piece of paper to prove it. In some countries, religious leaders or elders issue marriage documents and in others, it is the State. Whatever the process, marriage certificates are useful documents for a range of reasons as:

- In some cultures illegitimacy of children is a social stigma and birth certificates are sometimes not issued unless parents can show their marriage certificate.
- If one spouse dies and inheritance, pensions and/or compensation are available, showing a marriage certificate is, in some countries, crucial.

Being able to prove a death in the family can be crucial for inheritance and compensation. In some countries, during or following civil wars or disasters (such as the South Asian tsunami), compensation is payable for lost loved-ones. Sadly, it is often the case that when people die during flight it is not possible to register the death. Procedures for death registration are often very strict, requiring a post-mortem and/or an inquiry and registration at the place of death. In civil war in particular this can be very problematic, especially if people are missing and their death is not confirmed. It's important to remember also that in some cultures a death certificate is not just a piece of paper – it can be an important step in the grieving process and a pre-requisite for re-marriage.

When collecting data about birth, marriage and death registration, Camp Management Agencies need to ask some key questions:

- Have people lost their documents or were they never registered in the first place? It's important to know because the procedures for getting copies of documents are likely to be quite different than for new registrations.
- Where did the birth, marriage or death take place? Camp Management Agencies tend to focus on births, deaths and marriages after arrival at the camp. It is often the case that people have been moving for many days, weeks, months and even years before they arrived and babies are born and people die and marry en route without any chance to register. These people should also be assisted.
- If people have lost their documents, knowing where they registered will be important especially in countries where records are not centralised. Document numbers (if people can remember) and key data such as full names and dates are always very useful and sometimes critical.

Supporting Response Mechanisms

While the establishment and supervision of response mechanisms is usually the task of the competent national authorities and/or protection organisations, in coordination with the Sector/Cluster Lead, Camp Management Agencies also play an important advocacy and support role to that effect. They can:

- ensure that protection agencies establish a protection system in the camp to address protection incidents that occur and that they provide those who have suffered a violation of their rights with access to appropriate services and legal recourse
- ensure, together with the responsible protection agencies, that all camp residents are aware of existing services and how to access them
- ensure that all agencies' camp-based staff refer protection incidents to the appropriate agency and/or service provider
- encourage the establishment of community-based mechanisms to help with the referral of protection incidents and problems to the Camp Management Agency or appropriate protection agency
- when specific protection problems emerge liaise with the responsible agency or authority.

►► *For an example of how to report a protection incident, see the Tools section of this chapter.*

Monitoring and Evaluation

Camp Management Agencies and their staff often spend a great deal of their time in the camp. They are closer to the camp population and are often the first to identify problems. They should therefore strive to make sure that all stakeholders in and around the camp have a common understanding of protection. This can be accomplished through training and group sensitisations of the camp population developed in close consultation with the Protection Lead.

The Camp Management Agency should set up standard procedures for information collection and dissemination in coordination with the Protection Lead.

Camp Management Agencies must also:

- monitor whether all residents have safe and non-discriminatory access to camp and state facilities and services. This means compiling and sharing information on humanitarian gaps in the camp, on new developing needs, new arrivals, incidents of theft and violence inside and on the periphery of the camp

- assist protection agencies in assessing whether the measures taken to prevent and respond to protection incidents are effective
- determine the need, if any, for additional interventions by making sure that situation assessments of threats and risks are regularly made throughout the camp
- assist the Protection Lead in establishing a monitoring system for protection incidents that take place within the camp related to specific groups at risk
- promote and widely disseminate procedures for referring cases to medical, legal or information services in the camp
- inform relevant authorities or protection-mandated agencies of specific concerns for group advocacy to prevent or stop protection violations.

! An incident reporting framework should be easy to use, easy to manage and must enable meaningful and relevant analysis to support and substantiate interventions and advocacy in favour of survivors.

►► *For more details on information management, see chapter 5.*

▲ The Importance of Follow-Up – Voice from the field

“A Camp Management Agency may contribute significantly to protection in a camp setting through monitoring and reporting activities. In addition to this, what is sometimes forgotten is the Camp Management Agency’s duty to follow up on identified issues and on referrals. Follow-up is key to being accountable and to providing effective protection in camps.”

WHAT PROTECTION KNOWLEDGE DOES A CAMP MANAGEMENT AGENCY NEED?

A specialist knowledge on the part of the Camp Management Agency is not required in order for it to contribute to the protection of refugees, IDPs or other persons hosted in a camp or camp-like setting. What they do need in order to prevent and respond to protection risks is:

- the right attitude and being in touch with people and life in the camp. They need to be approachable by the camp population, open minded, active listeners, positive and proactive
- understanding that their attitude may contribute to protection or lack of it for camp residents
- a general understanding of the relevant legal framework (including national law): Camp Management Agencies should make active use of existing training opportunities offered by protection organisations or Sector/Cluster Leads. They should also read up on the key legal instruments that exist to protect the camp population, including the national constitution
- an understanding that different members of the camp community are exposed to different protection risks: it is crucial to be aware of the fact that protection risks and needs often depend on age, gender, ethnicity and disabilities.

! A rights- and community-based participatory approach with the camp residents is essential to create meaningful community participation in protection and assistance activities. Such an approach will not only empower the community as actors in their own protection, but assist the Camp Management Agency and other protection actors to ensure that the rights of all camp residents are identified and upheld. The community's leadership, but also other representatives of men, women and youth, should be involved in the design of programming and assistance activities.

- respect for confidentiality of personal information. Camp Management Agencies will soon lose the confidence of the camp population if they feel that personal information they provide is shared with others without consent. Sharing sensitive information may expose individuals to further protection risks and should therefore only be done with the informed consent of the person concerned and awareness of the risks associated.

▶▶ *For more details on Information Management see chapter 5*

Administration of Justice

Access to justice is a basic right as well as a key means to defend other human rights and ensure accountability for crime, violence and abuse.

Camp settings are not immune from criminal acts, or disputes among the camp population or between them and local residents. The breakdown of traditional and family support structures as well as the stress related to camp life, may contribute to increased criminality. In this context, residents in camps may be vulnerable to criminal acts by both residents or outside actors. Likely crimes may include theft, assault, rape and other forms of sexual assault, murder, kidnapping, forced prostitution and domestic violence.

The government has the responsibility to establish a functioning and effective system for the administration of justice which is accessible to the camp population without discrimination. In many camp situations administration of justice is dealt with by two parallel systems:

- the national justice system which is fully applicable to camp residents, whether IDPs or refugees: Best practice indicates that serious crimes, such as murder, rape, assault, child abuse or exploitation should always be handled through the national justice system
- alternative justice systems, which often resolve disputes at a community level. In some cases residents may bring with them traditional or non-formal mechanism which were used in their places of origin to provide mediation, resolution and punishment for certain disputes or crimes. In other cases, limited or no access to national justice systems may lead to creation by the community of informal dispute resolution mechanisms. Alternative justice or dispute resolution systems can be used for petty crimes and juvenile justice issues.

Both national justice systems and alternative justice mechanisms must meet minimum standards of fairness and transparency as well as be in conformity with human rights norms, including non-discrimination, prohibitions against torture and arbitrary arrest or detention.



Usually a set of norms is set up to ensure normal functioning of the camp and to make camp life predictable and expectations from camp residents clear. Establishing such sets of norms or camp rules is a responsibility of the Camp Management Agency. They are to be distinguished from justice systems, where the primary role of the Camp Management Agency is one of information-sharing and support.

While the Camp Management Agency and international and non-governmental organisations do not have the legal authority to deal with crimes committed by or against refugees or IDPs, they do have a responsibility to advocate for equal and non-discriminatory access by camp residents to justice systems and to ensure mechanisms set up in the camps meet basic international standards.

The Camp Management Agency should support the Protection Lead in its efforts to strengthen access to justice systems. Regular consultations with the Protection Lead will help the Camp Management Agency to decide who is best placed to undertake what action in the specific situation. The support that the Camp Management Agency can provide includes:

- advising the camp residents about mechanisms for the administration of justice and how to access them, including how to contact the police and the judiciary
- offering general understanding of the national justice system and existing alternative justice mechanisms applied in the camp
- disseminating information about applicable laws, rules and regulations to the community
- participating in protection co-ordination mechanisms aimed at addressing gaps in the administration of justice
- participating in identifying obstacles in accessing the national justice system, which may exist for the entire population or for certain groups, such as women, children or ethnic minorities



- exploring with the protection agencies operating in the camp mechanisms to overcome the identified barriers to the national justice system. This may mean:
 - negotiating with the authorities to increase policing in the camp
 - working with the authorities on the capacity-building of the local police
 - promoting access to courts if it is impeded due to the camp's remote location
 - negotiating with the local authorities for the establishment of mobile courts to regularly visit the camp
 - engaging or supporting NGOs which can provide legal assistance to both survivors and alleged perpetrators.

- carefully monitoring traditional courts and other informal mechanisms of dispute resolution particularly to ensure that:
 - favouritism and corruption do not impede equal access – for example by women and/or members of ethnic minorities
 - decision-making and punishment process is fair and in conformity with international standards
 - remedies, which could include restitution to the victim or community-service by the offender, are effective.

- where international standards are not met, in coordination with the protection agency, work with these structures and with the community at large to:
 - promote by-laws or codes for dispute resolution mechanisms inside the camp. Such process has to include all groups of residents and not be limited to camp leaders
 - identify partners with the relevant expertise to train those involved in administering justice as well as traditional and religious leaders on relevant international standards and community-based justice systems.

Freedom of Movement

The right to freedom of movement is guaranteed in a number of international and regional human rights instruments, as well as in the 1951 Refugee Convention. The Convention also encompasses the prohibition of forced movement, such as forced relocation or return. The extent to which this right to freedom of movement applies depends on whether a person is lawfully staying in the territory of a State or not. Thus:

IDPs: Should be able to move freely within their country and choose where they wish to reside on the same basis as other nationals. With few exceptions, encampment policies for IDPs constitute a grave violation of the right to freedom of movement.

Refugees: For non-nationals, including refugees, the right to freedom of movement requires that the person be lawfully on the territory of the State. Refugees recognised as such by the authorities of the host country are lawfully present and should generally not be subject to restrictions on their freedom of movement.

Under certain conditions however, restrictions on freedom of movement are permissible if they are provided for by law and are necessary and reasonable to achieve a legitimate aim. Under Article 12 of the International Covenant on Civil and Political Rights, these are restrictions deemed necessary to protect:

- national security
- public order
- public health
- the rights and freedoms of others.

To be lawful, restrictions to the freedom of movement laws must be consistent with other rights recognised in the Covenant. The above requirements need to be assessed over time as circumstances change. What may be a necessary restriction on freedom of movement during an emergency phase may no longer be reasonable or necessary after some time has passed.



The movement of refugees or IDPs living in camps may be restricted either by various practical and other barriers, such as:

- destruction of infrastructure and lack of affordable transport
- lack of safety and security owing to crime, armed conflict and generalised violence or the presence of landmines and explosive remnants of war
- lack or loss of identity or travel documents
- curtailment of their movement by the national authorities.

Curtailment may mean that residents cannot leave the camp or are limited to a certain radius around the camp. They can also mean that only a certain number of residents are permitted to leave the camp at any given period and can do so only after having obtained a pass from the local authorities, often from the national police present in the camp who control entry to and exit from the camp. If camp residents violate the encampment policy, they may be subject to fines, arrest, detention and in case of refugees, possibly, refoulement (forcible return to their country of origin).

Certain severe restrictions on freedom of movement may amount to detention. Detention is confinement within a narrowly bounded or restricted location, including prisons, closed camps, detention facilities or airport transit zones, where freedom of movement is substantially curtailed and where the only opportunity to leave this limited area is to leave the territory. Everyone, regardless of legal status, has the right to be protected against arbitrary or unlawful detention. This means that while the prohibition against detention is not absolute, a State must ensure, for the detention to be consistent with international standards, that certain requirements are met, including that it is based on law, it is not arbitrary (that is, it must be reasonable and necessary in all the circumstances), it is subject to periodic review and the person detained must have the right to challenge his or her detention in a court of law.

In a number of camp situations, national authorities have placed general restrictions on the freedom of movement of residents, justifying this to protect public order, national security and/or the security of the camp population. In different situations, the authorities have



argued that unrestricted movement of refugees or IDPs could result in increased criminality and/or conflicts between the camp residents and the host community in areas of limited natural or economic resources.

Freedom of movement is often a pre-condition for the enjoyment of various other rights. Restrictions on movement can have a serious impact on the protection of refugees and IDPs. Lack of freedom of movement may exacerbate tensions and feelings of confinement leading to psychosocial problems among the camp community. This may lead to increased criminality and aggressive behaviour within the camp thereby exacerbating the security situation for camp residents. Restrictions on freedom of movement may also reduce access to services available in the host communities, such as education and health facilities, as well as access to employment, including self-sufficiency activities. Lack of freedom of movement may mean that refugees and IDPs cannot access needed resources, such as firewood or pastoral land for their animals. Where families have been separated they may be unable to reunite and support each other. Overall, lack of freedom of movement is likely to result in increased poverty, trauma, marginalisation and dependency on humanitarian aid.

In order to reduce practical obstacles limiting the freedom of movement for camp residents, the Camp Management Agency should:

- identify through participatory assessments what obstacles exist and how they impact different groups within the community
- give primary consideration to the views and suggestions of different groups within the community when taking action to overcome such obstacles
- in cases where, for security reasons, camp residents request fencing of the camp, ensure that such decision is supported by the majority of camp residents, including women whose advice should be sought about the type of fence to construct



- consider providing modest financial assistance to individuals at particular risk, enabling them to use of available transport facilities when necessary for purposes of education or accessing health care or markets.

As concerns encampment policies or other formal restrictions to the freedom of movement, the Camp Management Agency should:

- be aware of the protection risks that may derive from encampment policies or other restrictions to the freedom of movement
- know the laws and policies in place regarding freedom of movement issues and understand the rationale behind encampment policies in a given situation
- provide gender- and age-appropriate information to camp residents, about the laws and policies concerning freedom of movement and the consequences of violating them
- provide details of persons or agencies to contact if arrested or detained outside of the camp
- be aware that restrictions on the freedom of movement may have different implications for men, women, boys and girls depending on their age and background. Ensure, in collaboration with agencies carrying out assessments, that these different risks are documented
- advocate for support in lifting restrictions on freedom of movement. While the actual negotiations will most likely take place between the local or national authorities and the lead protection agency working in the camp, the Camp Management Agency can support them by:
 - identifying protection concerns associated with the existing restrictions or ones that are relevant to prevent restrictions being imposed



- exploring and discussing benefits to lifting restrictions on freedom of movement for both the camp residents and the surrounding community with the host community and local authorities. For example, increased freedom of movement may enhance security in the camp or permit the refugees and IDPs to work towards self-sufficiency through income-generating activities which, ideally, should also help the surrounding community.
- where pass systems are in place to allow residents to enter or exit from the camp for certain periods of time, monitoring these to ensure that they are fair and transparent and are not subject to abuse or implemented in a discriminatory manner
- in some cases, police or guards controlling the gates have demanded bribes in order for a refugee or IDP to obtain a pass. Work with those in charge of camp security, to raise awareness of the rights of refugees and IDPs
- institute a system whereby camp residents can report detention incidents or problems in accessing exit passes
- ensure that the relevant protection agencies are immediately informed of incidents of residents being arrested or detained so that they can intervene with the authorities to obtain the person's release.

CHECKLIST FOR A CAMP MANAGEMENT AGENCY

- The Camp Management Agency works in close coordination with national authorities, the Sector/Cluster Lead, mandated protection actors and the camp community on protection planning at camp level.
- Camp staff are trained in and have an awareness of key national and international legal instruments and know what protection entails.
- Camp staff are aware of the mandates of protection actors working in the camp.
- Camp staff know the legal status of the displaced population.
- Training and awareness raising in protection is organised for a variety of state and non-government actors in close coordination with the Sector/Cluster Lead and mandated agencies.
- A comprehensive registration or profiling system is in place which is updated as appropriate.
- Protection is 'mainstreamed' or integrated across technical sectors and camp activities at all stages of the project cycle including assessment, planning, implementation, monitoring and evaluation.
- Protection referral procedures are clear and well-disseminated.
- The Camp Management Agency supports the Protection Lead and mandated agencies in advocating for the rights of the displaced to be upheld, including access to justice and law enforcement mechanisms in the camp.
- Monitoring tools and systems are agreed upon and in place to enable the Camp Management Agency to monitor and record the provision of assistance, services and security in the camp.

- ❑ Monitoring tools and reporting systems are agreed upon with the Protection Lead and put in place to enable the Camp Management Agency to monitor and report cases of abuse and the violation of human rights in the camp.
- ❑ Community participation is promoted in ways that increases protection and promotes the ability of the camp population to be actors in their own protection.
- ❑ Participatory assessment techniques are used to find out about the community's protection concerns, including the different needs and concerns of women and men, boys and girls of all ages.
- ❑ Reports and documentation, especially documents relating to sensitive protection issues are stored securely and shared only with the consent of the person(s) involved and with an awareness of the specific context.
- ❑ Regular coordination meetings with protection agencies are held to address protection issues.
- ❑ The Camp Management Agency works in ways that promotes accountability, including the provision of timely protection information updates and feedback on response capacity to the camp population.
- ❑ The protection and monitoring of groups and individuals most at risk is integrated into the daily activities of camp life.
- ❑ Camp Management Agency staff have all understood and signed an agency code of conduct.
- ❑ The Camp Management Agency is aware of protection risks that may result from freedom of movement restrictions.
- ❑ Freedom of movement is monitored and advocated for in coordination with the Sector/Cluster Lead, protection actors and national authorities.

TOOLS

! Almost all the tools, publications and other documents referred to are available on the Toolkit CD attached to every hardcopy binder. Weblinks are provided for downloadable online resources.

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Convention on the Elimination of All Forms of Discrimination Against Women. www.un.org/womenwatch/daw/cedaw/

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