

**THE ROLE OF INTERNATIONAL LAW IN THE STRUGGLE
AGAINST SEX-BASED AND GENDER-BASED VIOLENCE
AGAINST REFUGEE WOMEN**

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Q: WHAT IS INTERNATIONAL LAW?

INTRODUCTION

International law is one of the many tools used by the United Nations, NGO's, state agencies and many others when dealing with sex-based and gender-based violence against refugee women. International law can be used, for example, by the United Nations High Commissioner for Refugees' protection officers when dealing with cases such as the one described in the following case-study:

“A 15 YEAR OLD GIRL APPROACHED THE COMMUNITY SERVICES OFFICER, CLAIMING THAT TWO WEEKS AGO SHE HAD BEEN ABDUCTED BY A YOUNG MAN FROM THE CAMP, WHO ORIGINATES FROM THE SAME PROVINCE AS HER IN HER HOME COUNTRY. SHE MANAGED TO ESCAPE AFTER TWO DAYS. DURING THE PERIOD SHE WAS CONFINED/ILLEGALLY DETAINED AT THE YOUNG MAN'S HOUSE SHE WAS REPEATEDLY RAPED BY THE YOUNG MAN. HE CLAIMED HE WANTED TO MARRY HER. SHE DOES NOT WANT TO MARRY HIM. WHEN SHE ESCAPED SHE REPORTED WHAT HAD HAPPENED TO HER PARENTS. HER PARENTS ARE UNWILLING TO REPORT THE CASE TO THE POLICE AND ARE ADVISING THE GIRL TO MARRY THE 16 YEAR-OLD BOY SINCE HIS PARENTS HAVE MADE REPRESENTATIONS TO THAT EFFECT. SHE INSISTS SHE DOES NOT WANT TO GET MARRIED AS SHE WANTS TO FINISH HER STUDIES. SHE IS ALSO AFRAID THAT SHE MAY BE PREGNANT OR HAVE CONTRACTED A SEXUALLY TRANSMITTED DISEASE. UNDER THE MARRIAGES ACT OF THE ASYLUM COUNTRY THE LEGAL AGE FOR MARRIAGE IS 18 YEARS”¹.

This document introduces international law and its uses in the prevention of sex-based and gender-based violence against refugee women. When reading this document the following note should be kept in mind. Given the proliferation of international bodies, international legal tools, the non-binding force of many of the international tools, the rapid development of international tribunals over the past decade and many other factors that distinguish international law from domestic law

there are often times different definitions of legal terms (such as ‘rape’). The definitions used throughout this document are therefore widely accepted definitions, formulated by leading international bodies and leading scholarship recognized as authoritative. However, these definitions are not exclusive or definitive.

DEFINITION

*Black’s Law Dictionary*² defines international law in the following way

”THE LEGAL PRINCIPLES GOVERNING THE RELATIONSHIPS BETWEEN NATIONS; MORE MODERNLY, THE LAW OF INTERNATIONAL RELATIONS, EMBRACING NOT ONLY NATIONS BUT ALSO SUCH PARTICIPANTS AS INTERNATIONAL ORGANIZATIONS, MULTI-NATIONAL CORPORATIONS, NONGOVERNMENTAL ORGANIZATIONS, AND EVEN INDIVIDUALS (SUCH AS THOSE WHO INVOKE THEIR HUMAN RIGHTS OR COMMIT WAR CRIMES). – ALSO TERMED *PUBLIC INTERNATIONAL LAW*; *LAW OF NATIONS*’; *LAW OF NATURE AND NATIONS*; *JUS GENTIUM*; *JUS GENTIUM PUBLICUM*; *JUS INTER GENTES*; *FOREIGN-RELATIONS LAW*; *INTERSTATE LAW*; *LAW BETWEEN STATES* (THE WORD *STATE* IN THE LATTER TWO PHRASES BEING EQUIVALENT TO *NATION* OR *COUNTRY*)”.

HOW CAN INTERNATIONAL LAW BE USED AS A TOOL FOR ADVANCING REFUGEE WOMEN’S RIGHTS?

It is the United Nations view that:

“STATES HAVE TENDED TO ADOPT A PASSIVE ATTITUDE WHEN CONFRONTED BY CASES OF VIOLATIONS OF WOMEN’ S RIGHTS BY PRIVATE ACTORS. MOST LAWS FAIL TO PROTECT VICTIMS OR TO PUNISH PERPETRATORS. PASSING LAWS TO CRIMINALIZE VIOLENCE AGAINST WOMEN IS AN IMPORTANT WAY TO REDEFINE THE LIMITS OF ACCEPTABLE BEHAVIOUR.

STATES SHOULD ENSURE THAT NATIONAL LEGISLATION, ONCE ADOPTED, DOES NOT GO UNENFORCED. STATE RESPONSIBILITY IS

CLEARLY UNDERLINED IN ARTICLE 4 OF THE DECLARATION ON THE ELIMINATION OF VIOLENCE AGAINST WOMEN, WHICH STIPULATES THAT "STATES SHOULD EXERCISE DUE DILIGENCE TO PREVENT, INVESTIGATE AND, IN ACCORDANCE WITH NATIONAL LEGISLATION, PUNISH ACTS OF VIOLENCE AGAINST WOMEN, WHETHER THOSE ACTS ARE PERPETRATED BY THE STATE OR BY PRIVATE PERSONS.

ANY APPROACH DESIGNED TO COMBAT VIOLENCE MUST BE TWOFOLD, ADDRESSING THE ROOT CAUSES OF THE PROBLEM AND TREATING ITS MANIFESTATIONS. SOCIETY AT LARGE, INCLUDING JUDGES AND POLICE OFFICERS, MUST BE EDUCATED TO CHANGE THE SOCIAL ATTITUDES AND BELIEFS THAT ENCOURAGE MALE VIOLENCE"³.

In order to challenge traditional attitudes towards women and to break the cycle of abuse, concerted collaboration and action between governmental and non - governmental actors, including educators, health - care authorities, legislators, the judiciary and the mass media is required⁴.

The following are examples compiled by the United Nations that illustrate some steps taken at the national level to eradicate violence against women by improving laws relating to violence against women.

Legal steps to criminalize violence against women⁵

MEXICO

IN JULY 1991, MEXICO REVISED ITS RAPE LAW IN SEVERAL IMPORTANT WAYS. A PROVISION WAS ELIMINATED THAT ALLOWED A MAN WHO RAPES A MINOR TO AVOID PROSECUTION IF HE AGREES TO MARRY HER. NOW JUDGES ARE REQUIRED TO HAND DOWN A DECISION REGARDING ACCESS TO AN ABORTION WITHIN FIVE WORKING DAYS.

THE AMERICAS

ON 9 JUNE 1994, THE ORGANIZATION OF AMERICAN STATES ADOPTED THE INTER-AMERICAN CONVENTION TO PREVENT, PUNISH AND ERADICATE VIOLENCE AGAINST WOMEN (ALSO CALLED CONVENTION OF BELÉM DO PARÀ), A NEW INTERNATIONAL INSTRUMENT THAT RECOGNIZES ALL GENDER-BASED VIOLENCE AS AN ABUSE OF HUMAN RIGHTS. THIS CONVENTION PROVIDES AN INDIVIDUAL RIGHT OF PETITION AND A RIGHT FOR NON-GOVERNMENTAL ORGANIZATIONS TO LODGE COMPLAINTS WITH THE INTER-AMERICAN COMMISSION OF HUMAN RIGHTS.

AUSTRALIA

IN AUSTRALIA, A NATIONAL COMMITTEE ON VIOLENCE AGAINST WOMEN WAS ESTABLISHED TO COORDINATE THE DEVELOPMENT OF POLICY, LEGISLATION AND LAW ENFORCEMENT AT THE NATIONAL LEVEL AS WELL AS COMMUNITY EDUCATION ON VIOLENCE AGAINST WOMEN.

CANADA

IN 1991, THE GOVERNMENT OF CANADA ANNOUNCED A NEW FOUR-YEAR FAMILY VIOLENCE INITIATIVE INTENDED TO MOBILIZE COMMUNITY ACTION, STRENGTHEN CANADA'S LEGAL FRAMEWORK, ESTABLISH SERVICES ON INDIAN RESERVES AND IN INUIT COMMUNITIES, DEVELOP RESOURCES TO HELP VICTIMS AND STOP OFFENDERS, AND PROVIDE HOUSING FOR ABUSED WOMEN AND CHILDREN.

TURKEY

IN TURKEY, A MINISTRY OF STATE FOR WOMEN WAS ESTABLISHED WHOSE MAIN GOALS ARE, AMONG OTHERS, TO PROMOTE WOMEN'S RIGHTS AND STRENGTHEN THEIR ROLE IN ECONOMIC, SOCIAL, POLITICAL AND CULTURAL LIFE. LEGAL MEASURES ARE BEING ADOPTED TOWARDS THE ELIMINATION OF VIOLENCE AGAINST WOMEN. THE ESTABLISHMENT OF SPECIAL COURTS TO DEAL WITH VIOLENCE IS ENVISAGED. PSYCHOLOGICAL TREATMENT FOR ABUSED WOMEN IS ALSO PLANNED, ALONG WITH THE ESTABLISHMENT OF WOMEN'S SHELTERS AROUND THE COUNTRY. SPECIALLY TRAINED FEMALE POLICE OFFICERS COULD PROVIDE ASSISTANCE TO VICTIMS OF VIOLENCE.

BURKINA FASO

IN BURKINA FASO, A STRONG ADVERTISING CAMPAIGN BY THE GOVERNMENT AS WELL AS TELEVISION AND RADIO PROGRAMMES ON THE UNHEALTHY PRACTICE OF GENITAL MUTILATION WERE LAUNCHED TO EDUCATE AND RAISE PUBLIC AWARENESS ABOUT THE DANGEROUS CONSEQUENCES OF SUCH AN "OPERATION". A NATIONAL ANTI-EXCISION COMMITTEE WAS ESTABLISHED IN 1990 BY THE PRESENT HEAD OF STATE. TODAY, THE PRACTICE OF GENITAL MUTILATION HAS BEEN ELIMINATED IN SOME VILLAGES OF BURKINA FASO. IN OTHERS, THERE HAS BEEN AN INCREDIBLE DROP IN THE NUMBER OF GIRLS EXCISED: ONLY 10 PER CENT OF THE GIRLS ARE EXCISED COMPARED TO 100 PER CENT 10 YEARS AGO.

BRAZIL

SOME COUNTRIES HAVE INTRODUCED POLICE UNITS SPECIALLY TRAINED FOR DEALING WITH SPOUSAL ASSAULT. IN BRAZIL, SPECIFIC POLICE STATIONS HAVE BEEN DESIGNATED TO DEAL WITH WOMEN'S ISSUES, INCLUDING DOMESTIC VIOLENCE. THESE POLICE STATIONS ARE STAFFED ENTIRELY BY WOMEN.

INTERNATIONAL LAW AS A TOOL FOR RAISING AWARENESS: EDUCATION AND ADVOCACY

International law can also be used in “non - legal” ways in order to combat violence against women and promote the equality of women. For example, the standards international law sets and the progressive interpretation of universal terms such as ‘rape’ can be used as an educational tool when conducting training to local judiciary, to local police and security services and to the general public. International law can also be used to advocate for the development and the revision of interpretation of domestic law, and the incorporation of international law in domestic courts.

Q: WHAT ARE THE SOURCES OF INTERNATIONAL LAW?

CONVENTIONS AND TREATIES (INTERNATIONAL LEGAL DOCUMENTS)

“CONVENTIONAL INTERNATIONAL LAW INCLUDES INTERNATIONAL AGREEMENTS AND LEGISLATIVE TREATIES THAT ESTABLISH RULES EXPRESSLY RECOGNIZED BY CONSENTING STATES. ONLY STATES THAT ARE PARTIES TO A TREATY ARE BOUND BY IT. HOWEVER, A VERY LARGE NUMBER OF STATES VOLUNTARILY ADHERE TO TREATIES AND ACCEPT THEIR PROVISIONS AS LAW EVEN WITHOUT BECOMING PARTIES TO THEM”⁶.

International documents include:

- Multilateral **treaties**;
- International **declarations, resolutions and recommendations** that have been adopted by the United Nations or by other international organizations or conferences;
- **Decisions and actions** by UN organs or other international bodies such as Security Council resolutions, General Assembly resolutions, and UN Commission on Human Rights resolutions and other actions.

CUSTOMARY LAW

Customary international law is defined as a general practice of law under article 38(1)(b) of the ICJ Statute. In order to claim the existence of a customary law it is necessary to demonstrate

“A WIDESPREAD PRACTICE BY STATES CONFORMING TO AN ALLEGED RULE, TOGETHER WITH EVIDENCE THAT THEY HAVE FOLLOWED THIS PRACTICE BECAUSE THEY BELIEVE THAT THEY ARE UNDER A NORMATIVE OBLIGATION TO COMPLY WITH THAT RULE. CUSTOMARY INTERNATIONAL LAW IS GENERALLY BINDING UPON *ALL NATIONS*, WITHOUT REGARD TO WHETHER THEY HAVE EXPRESSLY CONSENTED. HOWEVER, THE CONCEPT OF CUSTOMARY LAWS SOMEWHAT TECHNICAL, AND PROVING THE EXISTENCE OF A CUSTOMARY RULE CAN BE DIFFICULT”⁷.

CASE LAW

“Case law” is a term used to refer to decisions of courts in legal systems in which such decisions are considered an *authoritative* source of law and of its interpretations. (This is the case mostly in countries that originally derived the structure of their legal system from England such as the United States and India). In international law it is still debated what is the status of ‘case law’ - that is, of decisions and precedents of various courts and tribunals. This is particularly problematic since there is no hierarchy between the different international tribunals and so there is no basis to claim that, for example, a decision of the International Court of Justice should bind the African Court of Human Rights and People’s Rights. However, some feel that decisions of one tribunal can be used as a *persuasive* tool in other courts and that it should be used in that way in the interest of harmonizing the interpretation of the conventions, treaties and customs.

NATIONAL LAW

A fourth source of law that can be used in the international legal system is national law. This includes⁸:

- National laws - the set of rules or principles dealing with specific areas of a given legal system.
- Regulations - a rule or order, having legal force, issued by an administrative agency or a local government.
- Court and administrative decisions - cases decided by a court or an administrative body are often used as a basis for determining later cases involving similar facts or issues.
- Policy pronouncements - general principles by which a government is guided in its management of public affairs.

WHERE CAN CONVENTIONS, TREATIES AND CUSTOMARY LAW BE FOUND?

The ‘guide to international human rights practice’⁹ lists the following sources of legal information:

- COMPILATIONS OF HUMAN RIGHTS DOCUMENTS CONTAINED IN UN AND OTHER REFERENCE WORKS.
- LAW - ORIENTED CASEBOOKS OR COURSE BOOKS, PRIMARILY UTILIZED IN LAW SCHOOLS, AND OTHER TEACHING MATERIALS.
- REGULAR PUBLICATIONS OF INTERGOVERNMENTAL ORGANIZATIONS, SUCH AS THE UNITED NATIONS, COUNCIL OF EUROPE, AND ORGANIZATION OF AMERICAN STATES.
- ANNUAL REPORTS OF SPECIALIZED HUMAN RIGHTS BODIES.
- PERIODICALS AND REPORTS OF NGO'S, IN PARTICULAR THOSE OF MAJOR NGO'S SUCH AS AMNESTY INTERNATIONAL, HUMAN RIGHTS WATCH AND THE INTERNATIONAL COMMISSION OF JURISTS.
- HUMAN RIGHTS PERIODICALS, INCLUDING REPORTING SERVICES LIKE THE *HUMAN RIGHTS INTERNET REPORTER* AND *HUMAN RIGHTS MONITOR* AND ACADEMIC JOURNALS SUCH AS *HUMAN RIGHTS QUARTERLY* AND THE *HUMAN RIGHTS LAW JOURNAL*.
- BIBLIOGRAPHIES, BOTH GENERAL AND THOSE WHICH SPECIALIZE IN HUMAN RIGHTS.
- OFFICIAL GOVERNMENT DOCUMENTS, WHICH OFTEN SET FORTH GOVERNMENT POLICY IN THE HUMAN RIGHTS AREA.
- NEWS MEDIA REPORTS, WHICH CAN PROVIDE FACTUAL INFORMATION ON PARTICULAR HUMAN RIGHTS SITUATION.

* See also [list of sources](#) at the end of this document

Q: IS INTERNATIONAL LAW BINDING?

WHAT IS THE STATUS OF INTERNATIONAL LAW?

“UNLIKE INDIVIDUAL SOVEREIGN STATES, THE COMMUNITY OF NATIONS HAS NO INTERNATIONAL LEGISLATURE EMPOWERED TO ENACT LAWS THAT ARE DIRECTLY BINDING ON ALL COUNTRIES... INSTEAD, STATES ESTABLISH LEGALLY BINDING OBLIGATIONS AMONG THEMSELVES IN OTHER WAYS, PRINCIPALLY BY EXPRESSLY CONSENTING TO AN OBLIGATION BY RATIFYING A TREATY OR OTHER INTERNATIONAL AGREEMENTS OR THROUGH WIDE ACCEPTANCE IN STATE PRACTICE OF A RULE AS BINDING CUSTOMARY INTERNATIONAL LAW.

... IN PRACTICE, THE MOST IMPORTANT AND USEFUL SOURCE OF INTERNATIONAL HUMAN RIGHTS LAW IS LIKELY TO BE INTERNATIONAL TREATIES, WHICH CLEARLY AND DIRECTLY CREATE OBLIGATIONS FOR THE PARTIES. BUT TREATIES ARE BINDING ONLY WHEN THEY ARE IN FORCE AND ONLY WITH RESPECT TO THE NATIONS THAT HAVE EXPRESSLY AGREED TO BECOME PARTIES TO THEM. THUS, IN DETERMINING WHETHER A TREATY IS LEGALLY RELEVANT TO A PARTICULAR COUNTRY, IT IS IMPORTANT TO ASCERTAIN

- (1) WHETHER THE TREATY CONTAINS EXPRESS LANGUAGE REQUIRING THE PARTIES TO RESPECT THE PARTICULAR HUMAN RIGHTS AT ISSUE;
- (2) WHETHER THE TREATY IS IN FORCE, SINCE MULTILATERAL TREATIES TYPICALLY DO NOT TAKE EFFECT UNTIL A CERTAIN NUMBER OF NATIONS HAVE DEPOSITED THEIR RATIFICATIONS...;
- (3) WHETHER THE NATION INVOLVED HAS IN FACT RATIFIED THE TREATY, SINCE SIGNATURE ALONE MAY NOT LEGALLY BIND A NATION TO THE OBLIGATIONS OF A MULTILATERAL TREATY; AND
- (4) WHETHER THE NATION IN QUESTION HAS FILED ANY RESERVATIONS THAT EXPRESSLY MODIFY ITS TREATY OBLIGATIONS.

... ENFORCEMENT CAN ALSO OCCUR AT THE INTERSTATE LEVEL. THUS, ONE STATE... CAN BRING DIPLOMATIC PRESSURE TO BEAR IN AN ATTEMPT TO INFLUENCE THE OTHER COUNTRY TO CEASE SUCH VIOLATIONS. SUCH PRESSURE MIGHT INCLUDE TRADITIONAL

“QUIET DIPLOMACY”, PUBLIC CRITICISM OR EVEN DENIAL OF MILITARY AND ECONOMIC ASSISTANCE.”¹⁰

Prof. Louis Henkin, one of the world’s foremost experts on international human rights law, has famously observed that:

“ALMOST ALL NATIONS OBSERVE ALMOST ALL PRINCIPLES OF INTERNATIONAL LAW AND ALMOST ALL OF THEIR OBLIGATIONS ALMOST ALL OF THE TIME”¹¹.

Though this, some might say, is an optimistic assessment of the compliance with international law, it is nevertheless the case that international law is a much more effective tool than people tend to realize. This is mainly due to the fact that even if a particular human rights document is not *legally* binding

“SUCH INSTRUMENTS ARE LIKELY TO POSSESS A *MORAL* OR *POLITICAL* FORCE THAT MAY BE USEFUL IN PERSUADING GOVERNMENT OFFICIALS TO OBSERVE HUMAN RIGHTS STANDARDS... MOREOVER, *NATIONAL COURTS* MAY BE RESPONSIVE TO ARGUMENTS THAT DOMESTIC LAW SHOULD BE INTERPRETED CONSISTENTLY WITH INTERNATIONAL HUMAN RIGHTS STANDARDS, PARTICULARLY IN CASES WHERE AN INCONSISTENT INTERPRETATION, EVEN IF NOT TECHNICALLY A BREACH OF INTERNATIONAL LAW, MIGHT NEVERTHELESS BE POLITICALLY EMBARRASSING.”¹²

The following fact can be seen as an indication to the widespread acceptance of many human rights documents, including those pertaining to women’s rights:

AS OF SEPTEMBER, 2000, 166 COUNTRIES - MORE THAN TWO - THIRDS OF THE MEMBERS OF THE UNITED NATIONS - ARE PARTY TO THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND AN ADDITIONAL 4 HAVE SIGNED THE TREATY, PLEDGING THEMSELVES TO DO NOTHING IN CONTRAVENTION OF ITS TERMS.¹³

WHO IS BOUND BY INTERNATIONAL HUMAN RIGHTS LAW?

Traditionally, only **states** have been considered the subject of international law. However, recent developments (such as the Pinochet case¹⁴ and cases tried in the International Criminal Tribunal for the Former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR)) have opened up the doors for the extension of the application of international law to **individuals**. In addition, many international forums are currently discussing the possibility of further so as extending international law to apply for '**Non-State Agents**' (such as militias, corporations and more).

Q: WHAT INTERNATIONAL LEGAL BODIES EXIST?

International legal bodies can be broken down into the following categories: regional bodies, international judicial bodies and United Nations bodies. This section focuses on the two latter categories. However, one should keep in mind the major regional bodies which are:

The European Commission of Human Rights ([ECHR](#))

The Inter-American Commission of Human Rights ([IACHR](#)),

The Organization of African Unity ([OAU](#)).

INTERNATIONAL JUDICIAL BODIES ¹⁵

‘International judicial bodies’ are bodies which are permanent, composed of judges not selected by the parties, who adjudicate disputes between two or more entities on the basis of predetermined rules of procedure. At least one of the entities must be a state or an international organization. Decisions are binding and are made on the basis of international law.

Following is a list of the predominant international judicial bodies that exist to date. There are additional international judicial bodies that are not listed, as they are less relevant to human rights issues.

THE INTERNATIONAL COURT OF JUSTICE (ICJ)

[The International Court of Justice](#) is sometimes referred to as the “World Court”. The ICJ was established in 1946 and is one of the six principal organs of [the United Nations](#). It is the principal judicial organ of the United Nations and the only one with universal scope and membership.

IT IS THE ONLY JUDICIAL FORUM BEFORE WHICH STATES, AND ONLY STATES, CAN BRING VIRTUALLY ANY LEGAL DISPUTE, NO MATTER WHETHER IT ARISES OUT OF THE ALLEGED VIOLATION OF AN INTERNATIONAL AGREEMENT OR OUT OF CUSTOMARY INTERNATIONAL LAW. NO OTHER FORUM'S JURISDICTION IS POTENTIALLY AS FAR-REACHING AS THAT OF THE ICJ.

The ICJ's function is 1. To settle in accordance with international law the legal disputes submitted to it by states. 2. To give advisory opinions on legal questions submitted by duly authorized international organs and agencies. 3. Exercise appellate jurisdiction (review of other court decisions).

INTERNATIONAL CRIMINAL COURT (ICC)

The establishment of two ad hoc criminal tribunals the [ICTY](#) and the [ICTR](#) (see below) have resulted in a strong pressure to create a permanent body that will charge, judge and sentence perpetrators of grave international crimes. [The International Criminal Court](#) is not yet operational and [the Rome Statute](#) which governs it has not yet entered into force (it will enter into force once ratified by 60 states¹⁶).

ONCE ACTIVE, THIS COURT WILL HAVE THE POWER TO TRY PERSONS ACCUSED OF THE MOST SERIOUS INTERNATIONAL CRIMES (I.E., GENOCIDE, CRIMES AGAINST HUMANITY, WAR CRIMES AND, IF AND WHEN AGREEMENT ON A DEFINITION CAN BE REACHED, THE CRIME OF AGGRESSION).

[FOR RAPE AS A WAR CRIME SEE: "[SUBCATEGORIES OF VIOLENCE AGAINST WOMEN](#)"]

What makes the Rome Statute significantly different from all predecessors, and in particular from the two ad hoc tribunals, is that

FOR THE FIRST TIME VICTIMS OF CRIMES AND THEIR FAMILIES CAN ACCESS THE COURT TO EXPRESS THEIR VIEWS AND CONCERNS AND TO CLAIM REPARATION FOR THE WRONGS SUFFERED. VICTIMS OF INTERNATIONAL CRIMES CAN CLAIM REPARATION FOR THE VIOLATION OF THEIR RIGHTS. THEY WILL DO SO ON THEIR OWN BEHALF OR THROUGH THEIR REPRESENTATIVES, NOT THROUGH A STATE ESPOUSING THEIR CLAIMS.

Unlike the Yugoslavia and Rwanda tribunals, the ICC is a permanent judicial body, the jurisdiction of which is not restricted by any time limits and will have universal reach. Also unlike the ICTY and ICTR, the ICC is intended to complement

the jurisdiction of national courts, not to have primacy over them. The ICC will exercise its jurisdiction only when national courts are "...unwilling or unable genuinely to carry out the investigation or prosecution" of a person accused of the crimes defined in the Rome Statute. [The UN General Assembly](#) will address instances of failure on the part of the states to cooperate with the Court.

**INTERNATIONAL CRIMINAL TRIBUNAL FOR THE FORMER YUGOSLAVIA (ICTY)
AND INTERNATIONAL CRIMINAL TRIBUNAL FOR RWANDA (ICTR)**

Often called "the twin tribunals", the [ICTY](#) and the [ICTR](#) are ad hoc tribunals that were established by the [UN Security Council](#) in 1993 and 1994 (respectively). The ICTY and the ICTR share the same Chief Prosecutor and the same Appeal Chamber.

THE SINGLE MOST IMPORTANT ELEMENT THAT SETS THE ICTY AND THE ICTR APART (AND ALSO THE ICC) FROM ALL OTHER INTERNATIONAL JUDICIAL BODIES, IS THAT THEY ARE "CRIMINAL COURTS." THIS HAS MULTIPLE IMPLICATIONS. FIRSTLY, IT MEANS THAT THE PARTIES TO THE JUDICIAL PROCESS ARE ALWAYS, ON THE ONE HAND INDIVIDUALS, AS "ACCUSED," AND ON THE OTHER HAND THE PROSECUTORS.

SECONDLY, UNLIKE IN THE CASE OF ALL OTHER INTERNATIONAL JUDICIAL BODIES, STATES AND INTERNATIONAL ORGANIZATIONS DO NOT HAVE STANDING (THAT IS, THEY DO NOT HAVE A RIGHT TO MAKE A LEGAL CLAIM OR TO BE THE ONES SEEKING JUDICIAL ENFORCEMENT).

INDIVIDUALS CONVICTED OF CRIMES OF GENOCIDE OR CRIMES AGAINST HUMANITY ARE SUBJECT TO CRIMINAL SANCTIONS (I.E., SERVING JAIL PERIODS UP TO A LIFE-SENTENCE).

ACCORDINGLY, UNLIKE ALL OTHER INTERNATIONAL JUDICIAL BODIES, THE ICTY AND THE ICTR HAVE A SPECIAL DETENTION UNIT LOCATED AT THE HAGUE AND IN ARUSHA, RESPECTIVELY.

THEIR STATUTES AND RULES OF PROCEDURE AND EVIDENCE PROVIDE ELABORATE PROTECTIVE MEASURES FOR VICTIMS AND WITNESSES, ESPECIALLY IN CASES OF RAPE OR SEXUAL ASSAULT.

Since they are established by a UN Security Council resolution all member states of the United Nations are bound to comply with the requests and decisions of the tribunals. Non-compliant or even non-collaborative states can be referred to the UN Security Council for sanction.

Finally, it should be mentioned that the jurisdiction of the ICTY and the ICTR is not exclusive but concurrent with that of national courts. However, both have primacy over national courts.

EUROPEAN COURT OF HUMAN RIGHTS (ECHR)

[The European Court of Human Rights](#) was established by [the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms](#), under the aegis of [the Council of Europe](#), with the task of supervising, along with [the European Commission of Human Rights](#), set up in 1953, the observance of the rights and freedoms listed therein.

Unlike in the case of many other international courts, compliance with the ECHR's judgments is common, exerting a deep influence on the laws and social realities of member states.

As of October 1, 1994 individual applicants can bring their cases before the Court (subject to some procedural requirements). Moreover, individuals can now, in limited circumstances, seek a re-hearing in a case decided by a Court's Chamber (7 judges) before the Court's Grand Chamber (17 judges).

INTER-AMERICAN COURT OF HUMAN RIGHTS (IACHR)

[The Inter-American Court of Human Rights](#) was established by [the 1969 American Convention of Human Rights](#), under the aegis of [the Organization of American States](#), with the task to ensure, along with [the Inter-American Commission of Human Rights](#), the observance of the rights and freedoms protected thereunder.

In the case of the IACHR, consent must be given, either unconditionally or on condition of reciprocity, for a specific period or for specific cases, by way of a declaration presented to the Secretary General of the OAS. This significantly restricts access to the Court. Moreover, individuals cannot directly access the IACHR to seek

redress for the violation of their rights. They must file their complaints with the Inter-American Commission, which, in turn, seeks vindication.

AFRICAN COURT OF HUMAN AND PEOPLES' RIGHTS (ACHR)

[The African Court on Human and Peoples' Rights](#) was established in 1998 by a protocol, 12 years after the entry into force of [the African Charter on Human and Peoples' Rights](#), under the aegis of the [Organization of African Unity \(OAU\)](#). The Protocol establishing the ACHR has not yet entered into force and therefore much of the data regarding its functioning is not yet available. Before the adoption of the ACHR Protocol, the protection of rights listed in the African Charter rested solely with [the African Commission on Human and Peoples' Rights](#), a quasi-judicial body, modeled on the UN Human Rights Committee, with no binding powers.

The Protocol provides that actions may be brought before the Court on the basis of any legal tool, including international human rights treaties, which have been ratified by the state party in question. Furthermore, the Court can apply as sources of law any relevant human rights document ratified by the state in question, in addition to the African Charter.

UNLIKE ANY OTHER JUDICIAL BODY, ADVISORY OPINIONS CAN BE REQUESTED BY NOT ONLY MEMBER STATES AND OAU ORGANS, BUT BY ANY AFRICAN NGO THAT HAS BEEN RECOGNIZED BY THE OAU. THEREFORE, IN THE AREA OF CONTENTIOUS JURISDICTION, INDIVIDUALS CAN BRING CASES BUT ONLY IF, AT THE TIME OF THE RATIFICATION OF THE DRAFT PROTOCOL OR THEREAFTER, THE STATE AT ISSUE HAS MADE A DECLARATION ACCEPTING THE JURISDICTION OF THE COURT TO HEAR SUCH CASES.

UNITED NATIONS BODIES

UN Committee on Human Rights

The UN Committee on Human Rights¹⁷ is not a judicial body but rather was established in order to monitor the implementation of the International Covenant on

Civil and Political Rights and the Protocols to the Covenant. It is composed of 18 independent experts. The Committee convenes three times a year for sessions of three weeks' duration.

THE COMMITTEE CONSIDERS, AMONG OTHER COMMUNICATIONS,
CLAIMS MADE BY INDIVIDUALS WHO BELIEVE THAT THEIR RIGHTS
AND FREEDOMS HAVE BEEN VIOLATED BY A STATE PARTY.

The complaint cannot be considered if the same problem is being investigated under another international procedure, and all domestic remedies must have been exhausted before it can be taken up by the Committee.

Several countries have changed their laws as a result of decisions by the Committee. In a number of cases, prisoners have been released and compensation paid to victims of human rights violations. In 1990, the Committee instituted a mechanism whereby it seeks to monitor more closely whether states parties have given effect to its final decisions on the merits.

United Nations High Commissioner for Human Rights (UNHCHR)

The High Commissioner for Human Rights is the UN official with principal responsibility for human rights¹⁸. Her mandate includes:¹⁹ promoting and protecting the effective enjoyment of civil, cultural, economic, political and social rights; providing advisory services and technical and financial assistance in the field of human rights to states that request them; coordinating UN education and public information programs in the field of human rights; engaging governments in a dialogue to secure respect for human rights; playing an active role in removing the obstacles to the full realization of human rights; and enhancing international cooperation for the promotion and protection of human rights.

UNHCHR OPERATES A [24-HOUR "HOT LINE" FOR REPORTING HUMAN RIGHTS VIOLATIONS](#) CONSISTING OF A 24-HOUR FACSIMILE LINE THAT ALLOWS UNHCHR IN GENEVA TO MONITOR AND REACT RAPIDLY TO HUMAN RIGHTS EMERGENCIES. THE HOT LINE IS AVAILABLE TO VICTIMS OF HUMAN RIGHTS VIOLATIONS, THEIR RELATIVES AND NON-GOVERNMENTAL ORGANIZATIONS. THE HOT

LINE FAX NUMBER IN GENEVA, SWITZERLAND IS 41-22-917-0092. THE HOT LINE IS ESPECIALLY VALUABLE TO THOSE WISHING TO ESTABLISH URGENT, POTENTIALLY LIFE-SAVING CONTACT WITH THE SPECIAL PROCEDURES BRANCH OF THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS.

UNHCHR also created a Human Rights Database in Geneva to gather information for use by special rapporteurs who are responsible for investigating questions such as religious intolerance, torture, racism and freedom of expression. The new database contains information that will eventually be available by modem or other electronic means to human rights rapporteurs and experts worldwide.

The International Law Commission ([ILC](#))

The International Law Commission was established by the United Nations General Assembly in 1947 to promote the progressive development of international law and its codification.

The Commission, which meets annually, is composed of 34 members who are elected by the General Assembly for five year terms and who serve in their individual capacity, not as representatives of their Governments.

Most of the Commission's work involves the preparation of drafts on topics of international law. When the Commission completes draft articles on a particular topic, the General Assembly usually convenes an international conference of the representatives of member states to incorporate the draft articles into a convention which is then open to states to become parties.

Q: WHAT CONSTITUTES VIOLENCE AGAINST WOMEN?

Given the non-coherent nature of international law, and given the fact that there is no international legal body that has the ultimate authority to interpret legal terms such as “violence against women”, there is no one, exhaustive and exclusive, definition of violence against women. In different societies and in different contexts (legal, medical etc.), different definitions are used. For this reason, all information and definitions in this section are taken from the publication of the United Nations²⁰. Other definitions are also in use.

DEFINITION OF VIOLENCE AGAINST WOMEN

The United Nation’s description of *gender-based abuse* is as follows:

“VIOLENCE AFFECTS THE LIVES OF MILLIONS OF WOMEN WORLDWIDE, IN ALL SOCIO-ECONOMIC AND EDUCATIONAL CLASSES. IT CUTS ACROSS CULTURAL AND RELIGIOUS BARRIERS, IMPEDING THE RIGHT OF WOMEN TO PARTICIPATE FULLY IN SOCIETY.

VIOLENCE AGAINST WOMEN TAKES A DISMAYING VARIETY OF FORMS, FROM DOMESTIC ABUSE AND RAPE TO CHILD MARRIAGES AND FEMALE CIRCUMCISION. ALL ARE VIOLATIONS OF THE MOST FUNDAMENTAL HUMAN RIGHTS.

IN A STATEMENT TO THE FOURTH WORLD CONFERENCE ON WOMEN IN BEIJING IN SEPTEMBER 1995, THE UNITED NATIONS SECRETARY-GENERAL, BOUTROS BOUTROS-GHALI, SAID THAT VIOLENCE AGAINST WOMEN IS A UNIVERSAL PROBLEM THAT MUST BE UNIVERSALLY CONDEMNED. BUT HE SAID THAT THE PROBLEM CONTINUES TO GROW.

THE SECRETARY-GENERAL NOTED THAT DOMESTIC VIOLENCE ALONE IS ON THE INCREASE. STUDIES IN 10 COUNTRIES, HE SAID, HAVE FOUND THAT BETWEEN 17 PER CENT AND 38 PER CENT OF WOMEN HAVE SUFFERED PHYSICAL ASSAULTS BY A PARTNER.

IN THE PLATFORM FOR ACTION, THE CORE DOCUMENT OF THE BEIJING CONFERENCE, GOVERNMENTS DECLARED THAT “VIOLENCE AGAINST WOMEN CONSTITUTES A VIOLATION OF BASIC HUMAN

RIGHTS AND IS AN OBSTACLE TO THE ACHIEVEMENT OF THE OBJECTIVES OF EQUALITY, DEVELOPMENT AND PEACE”²¹.

The issue of advancing women's rights has concerned the United Nations since the Organization's founding. Yet the alarming global dimensions of female-targeted violence were not explicitly acknowledged by the international community until December 1993, when the United Nations General Assembly adopted the Declaration on the Elimination of Violence against Women. Until that point, most Governments tended to regard violence against women largely as a private matter between individuals, and not as a pervasive human rights problem requiring state intervention. The Declaration on the Elimination of Violence against Women is the first international human rights document to exclusively and explicitly address the issue of violence against women. It affirms that the phenomenon violates, impairs or nullifies women's human rights and their exercise of fundamental freedoms.

The Declaration provides a broad definition of ‘*gender-based abuse*’, calling it:

"ANY ACT OF GENDER-BASED VIOLENCE THAT RESULTS IN, OR IS LIKELY TO RESULT IN, PHYSICAL, SEXUAL OR PSYCHOLOGICAL HARM OR SUFFERING TO WOMEN, INCLUDING THREATS OF SUCH ACTS, COERCION OR ARBITRARY DEPRIVATION OF LIBERTY, WHETHER OCCURRING IN PUBLIC OR IN PRIVATE LIFE".

The definition is amplified in article 2 of the Declaration, which identifies three areas in which violence commonly takes place:

PHYSICAL, SEXUAL AND PSYCHOLOGICAL VIOLENCE THAT OCCURS IN THE FAMILY, INCLUDING BATTERING; SEXUAL ABUSE OF FEMALE CHILDREN IN THE HOUSEHOLD; DOWRY-RELATED VIOLENCE; MARITAL RAPE; FEMALE GENITAL MUTILATION AND OTHER TRADITIONAL PRACTICES HARMFUL TO WOMEN; NON-SPOUSAL VIOLENCE; AND VIOLENCE RELATED TO EXPLOITATION; PHYSICAL, SEXUAL AND PSYCHOLOGICAL VIOLENCE THAT OCCURS WITHIN THE GENERAL COMMUNITY, INCLUDING RAPE; SEXUAL ABUSE;

SEXUAL HARASSMENT AND INTIMIDATION AT WORK, IN EDUCATIONAL INSTITUTIONS AND ELSEWHERE; TRAFFICKING IN WOMEN; AND FORCED PROSTITUTION; PHYSICAL, SEXUAL AND PSYCHOLOGICAL VIOLENCE PERPETRATED OR CONDONED BY THE STATE, WHEREVER IT OCCURS.

The Work of the Special Rapporteur on Violence Against Women²²

In view of the alarming growth in the number of cases of violence against women throughout the world, the Commission on Human Rights adopted resolution 1994/45 of 4 March 1994, in which it decided to appoint the Special Rapporteur on Violence Against Women. The Special Rapporteur has a mandate to collect and analyze comprehensive data and to recommend measures aimed at eliminating violence at the international, national and regional levels.²³ As a result of these steps, the problem of violence against women has been drawing increasing political attention.

SUBCATEGORIES OF VIOLENCE AGAINST WOMEN

Rape

Rape can occur anywhere, even in the family, where it can take the form of marital rape or incest. It occurs in the community, where a woman can fall prey to any abuser, including husband or intimate partner. It also occurs in situations of armed conflict and in refugee camps.

The report of the Special Rapporteur on Violence Against Women underlines the importance of education to sensitize the public about the special horrors of rape, and of sensitivity training for the police and hospital staff who work with victims.

Rape As A War Crime

According to the UN women are victims of incest, rape and domestic violence that often lead to trauma, physical handicap or death and rape is still being used as a weapon of war, a strategy used to subjugate and terrify entire communities. Soldiers deliberately impregnate women of different ethnic groups and abandon them when it is too late to get an abortion.

THE PLATFORM FOR ACTION ADOPTED AT THE FOURTH WORLD CONFERENCE ON WOMEN IN 1995 DECLARED THAT RAPE IN ARMED CONFLICT IS A WAR CRIME AND COULD, UNDER CERTAIN CIRCUMSTANCES, BE CONSIDERED GENOCIDE.

Violence Perpetrated or Condoned by States

Violence against women in situations of armed conflict

Rape has been widely used as a weapon of war whenever armed conflicts arise between different parties. It has been used all over the world: in Chiapas, Mexico, in Rwanda, in Bosnia, in Kuwait, in Haiti, in Colombia, etc.

Women and girl children are frequently victims of gang rape committed by soldiers from all sides of a conflict. Such acts are done mainly to trample the dignity of the victims. Rape has been used to reinforce the policy of ethnic cleansing in the war that has torn apart the former Yugoslavia.

THE SO-CALLED "COMFORT WOMEN" - YOUNG GIRLS OF COLONIZED OR OCCUPIED COUNTRIES WHO BECAME SEXUAL SLAVES TO JAPANESE SOLDIERS DURING THE SECOND WORLD WAR - HAVE DRAMATIZED THE PROBLEM IN A HISTORICAL CONTEXT. MANY OF THESE WOMEN ARE NOW COMING FORWARD AND DEMANDING COMPENSATION FOR THEIR SUFFERING FROM JAPANESE AUTHORITIES. "SUCH RAPE IS THE SYMBOLIC RAPE OF THE COMMUNITY, THE DESTRUCTION OF THE FUNDAMENTAL ELEMENTS OF A SOCIETY AND CULTURE - THE ULTIMATE HUMILIATION OF THE MALE ENEMY", THE REPORT BY THE SPECIAL RAPPORTEUR NOTED. IT STRESSED THE NEED TO HOLD THE PERPETRATORS OF SUCH CRIMES FULLY ACCOUNTABLE.

Violence Against Refugee and Displaced Women

Women and children form the great majority of refugee populations all over the world and are especially vulnerable to violence and exploitation. In some refugee camps, they are raped and abused by military and immigration personnel, bandit groups, male refugees and rival ethnic groups. Some are also forced into prostitution.

In her report, the Special Rapporteur proposes the following measures to be taken for the protection of women and girls in refugee camps: improvement of security, deployment of trained female officers at all points of the refugees' journey, participation of women in organizational structures of the camps and prosecution of government and military personnel responsible for abuse against refugee women.

Custodial Violence Against Women

Violence against women by the very people who are supposed to protect them – members of the law enforcement and criminal justice system - is widespread. Women are physically or verbally abused; they also suffer sexual and physical torture. According to Amnesty International, thousands of women held in custody are routinely raped in police detention centers worldwide. The report of the Special Rapporteur underlines the necessity for states to prosecute those accused of abusing women while in detention and to hold them accountable for their actions.

Sexual Assault Within Marriage

In many countries sexual assault by a husband on his wife is not considered to be a crime: a wife is expected to submit. It is thus very difficult in practice for a woman to prove that sexual assault has occurred unless she can demonstrate serious injury.

The report of the Special Rapporteur noted that light sentences in sexual assault cases send the wrong message to perpetrators and to the public at large: that female sexual victimization is unimportant.

Sexual Harassment

Sexual harassment in the workplace is a growing concern for women. Employers abuse their authority to seek sexual favors from their female co-workers or subordinates, sometimes promising promotions or other forms of career advancement or simply creating an untenable and hostile work environment. Women who refuse to give in to such unwanted sexual advances often run the risk of anything from demotion to dismissal.

But in recent years more women have been coming forward to report such practices - some taking their cases to court.

In her report, the Special Rapporteur stressed that sexual harassment constitutes a form of sex discrimination. "It not only degrades the woman", the report noted, "but reinforces and reflects the idea of non-professionalism on the part of women workers, who are consequently regarded as less able to perform their duties than their male colleagues."

Domestic Violence

Violence against women in the family occurs in developed and developing countries alike. It has long been considered a private matter by bystanders - including neighbors, the community and government.

IN THE UNITED STATES, A WOMAN IS BEATEN EVERY 18 MINUTES. INDEED, DOMESTIC VIOLENCE IS THE LEADING CAUSE OF INJURY AMONG WOMEN OF REPRODUCTIVE AGE IN THE UNITED STATES. BETWEEN 22 AND 35 PER CENT OF WOMEN WHO VISIT EMERGENCY ROOMS ARE THERE FOR THAT REASON.

IN PERU, 70 PER CENT OF ALL CRIMES REPORTED TO THE POLICE INVOLVE WOMEN BEATEN BY THEIR HUSBANDS.

IN PAKISTAN, PRIME MINISTER BENAZIR BHUTTO STRONGLY DEFENDED A 35-YEAR-OLD MOTHER OF TWO WHO WAS SEVERELY BURNED BY HER HUSBAND IN A DOMESTIC DISPUTE.

"THERE IS NO EXCUSE FOR SUCH A BEHAVIOUR", THE PRIME MINISTER DECLARED AFTER VISITING THE HOSPITALIZED VICTIM. "MY PRESENCE HERE IS TO SEND A MESSAGE TO ALL THOSE WHO VIOLATE ISLAMIC TEACHINGS AND DEFY LAWS OF THE LAND WITH THEIR INHUMAN TREATMENT OF WOMEN. THIS WILL NOT BE TOLERATED."

ACCORDING TO THE HUMAN RIGHTS COMMISSION OF PAKISTAN, IN THE 400 CASES OF DOMESTIC VIOLENCE REPORTED IN 1993 IN THE PROVINCE OF PUNJAB, NEARLY HALF ENDED WITH THE DEATH OF THE WIFE.

However, according to the report of the United Nations Special Rapporteur on Violence Against Women, many Governments now recognize the importance of protecting victims of domestic abuse and taking action to punish perpetrators. The establishment of structures allowing officials to deal with cases of domestic violence and its consequences is a significant step towards the elimination of violence against women in the family. The Special Rapporteur's report highlights the importance of adopting legislation that provides for prosecution of the offender. It also stresses the importance of specialized training for law enforcement authorities as well as medical and legal professionals, and of the establishment of community support services for victims, including access to information and shelters.

Traditional Practices

In many countries, women fall victim to traditional practices that violate their human rights. The persistence of the problem has much to do with the fact that most of these physically and psychologically harmful customs are deeply rooted in the tradition and culture of society.

One of the most common traditional practices is Female Genital Mutilation (FGM), sometimes referred to as Female Circumcision. Other practices covered in the Special Rapporteur's report are:

1. Son Preference
2. Dowry - related violence and early marriage

Female Genital Mutilation (FGM)

ACCORDING TO THE WORLD HEALTH ORGANIZATION, 85 MILLION TO 115 MILLION GIRLS AND WOMEN IN THE POPULATION HAVE UNDERGONE SOME FORM OF FEMALE GENITAL MUTILATION AND SUFFER FROM ITS ADVERSE HEALTH EFFECTS.

EVERY YEAR AN ESTIMATED 2 MILLION YOUNG GIRLS UNDERGO THIS PROCEDURE. MOST LIVE IN AFRICA AND ASIA BUT AN INCREASING NUMBER CAN BE FOUND AMONG IMMIGRANT AND REFUGEE FAMILIES IN WESTERN EUROPE AND NORTH AMERICA. THE PRACTICE HAS BEEN OUTLAWED IN SOME EUROPEAN COUNTRIES AND IN NORTH AMERICA.

IN FRANCE, A MALIAN WAS CONVICTED IN A CRIMINAL COURT AFTER HIS BABY GIRL DIED OF A FEMALE CIRCUMCISION-RELATED INFECTION. THE PROCEDURE HAD BEEN PERFORMED ON THE INFANT AT HOME.

IN CANADA, FEAR OF BEING FORCED TO UNDERGO CIRCUMCISION CAN BE GROUNDS FOR ASYLUM. A NIGERIAN WOMAN WAS GRANTED REFUGEE STATUS SINCE SHE FELT THAT SHE MIGHT BE PERSECUTED IN HER HOME COUNTRY BECAUSE OF HER REFUSAL TO INFLICT GENITAL MUTILATION ON HER BABY DAUGHTER.

There is a growing consensus that the best way to eliminate these practices is through educational campaigns that emphasize their dangerous health consequences. Several Governments have been actively promoting such campaigns in their countries.

Prostitution And Trafficking

Many women are forced into prostitution either by their parents, husbands or boyfriends - or as a result of the difficult economic and social conditions in which they find themselves. They are also lured into prostitution, sometimes by "mail-order bride" agencies that promise to find them a husband or a job in a foreign country. As a result, they very often find themselves illegally confined in brothels in slavery-like conditions where they are physically abused and their passports withheld.

Most women initially victimized by sexual traffickers have little inkling of what awaits them. They generally get a very small percentage of what the customer pays to the pimp or the brothel owner. Once they are caught up in the system there is practically no way out, and they find themselves in a very vulnerable situation.

Since prostitution is illegal in many countries, it is difficult for prostitutes to come forward and ask for protection if they want to escape from brothels. Customers, on the other hand, are rarely the object of penal laws.

In Thailand, prostitutes who complain to the police are often arrested and sent back to the brothels upon payment of a fine.

The extent of trafficking in women and girl children has reached alarming proportions, especially in Asian countries.

Many women and girl children are trafficked across borders, often with the complicity of border guards. In one incident, five young prostitutes burned to death in a brothel fire because they had been chained to their beds. At the same time, sex tours of developing countries are a well-organized industry in several European and other industrialized countries.

The Special Rapporteur has called on Governments to take action to protect young girls from being recruited as prostitutes and to closely monitor recruiting agencies.

Q: WHAT ARE THE PRIMARY LEGAL DOCUMENTS SECURING THE RIGHTS OF REFUGEE WOMEN?

FIELDS OF LAW AND PRIMARY LEGAL DOCUMENTS

The legal fields within international law securing the rights of refugee women are:

3. Human rights law
4. Humanitarian law and the law of war
5. Refugee law

The primary legal documents securing the rights of women refugees are:

1. The Convention on the Elimination of All Forms of Discrimination against Women ([CEDAW](#)) [see below]
2. The Universal Declaration of Human Rights ([UDHR](#))
3. The International Covenant on Economic, Social and Cultural Rights ([CESCR](#))
4. The International Covenant on Civil and Political Rights ([CCPR](#))
5. The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment ([CAT](#))
7. The Convention on the Rights of the Child ([CRC](#)).
8. [The Convention on the Prevention and Punishment of the Crime of Genocide](#)
9. [Convention relating to the Status of Refugees](#)

THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW)

The United Nations Division for the Advancement of Women introduces CEDAW in the following way:

“THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN (CEDAW), ADOPTED IN 1979 BY THE UN GENERAL ASSEMBLY, IS OFTEN DESCRIBED AS AN INTERNATIONAL BILL OF RIGHTS FOR WOMEN. CONSISTING OF A PREAMBLE AND 30 ARTICLES, IT DEFINES WHAT CONSTITUTES DISCRIMINATION AGAINST WOMEN AND SETS UP AN AGENDA FOR NATIONAL ACTION TO END SUCH DISCRIMINATION.

THE CONVENTION DEFINES DISCRIMINATION AGAINST WOMEN AS "...ANY DISTINCTION, EXCLUSION OR RESTRICTION MADE ON THE BASIS OF SEX WHICH HAS THE EFFECT OR PURPOSE

OF IMPAIRING OR NULLIFYING THE RECOGNITION, ENJOYMENT OR EXERCISE BY WOMEN, IRRESPECTIVE OF THEIR MARITAL STATUS, ON A BASIS OF EQUALITY OF MEN AND WOMEN, OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN THE POLITICAL, ECONOMIC, SOCIAL, CULTURAL, CIVIL OR ANY OTHER FIELD."

BY ACCEPTING THE CONVENTION, STATES COMMIT THEMSELVES TO UNDERTAKE A SERIES OF MEASURES TO END DISCRIMINATION AGAINST WOMEN IN ALL FORMS, INCLUDING: TO INCORPORATE THE PRINCIPLE OF EQUALITY OF MEN AND WOMEN IN THEIR LEGAL SYSTEM, ABOLISH ALL DISCRIMINATORY LAWS AND ADOPT APPROPRIATE ONES PROHIBITING DISCRIMINATION AGAINST WOMEN; TO ESTABLISH TRIBUNALS AND OTHER PUBLIC INSTITUTIONS TO ENSURE THE EFFECTIVE PROTECTION OF WOMEN AGAINST DISCRIMINATION; AND TO ENSURE ELIMINATION OF ALL ACTS OF DISCRIMINATION AGAINST WOMEN BY PERSONS, ORGANIZATIONS OR ENTERPRISES.

THE CONVENTION PROVIDES THE BASIS FOR REALIZING EQUALITY BETWEEN WOMEN AND MEN THROUGH ENSURING WOMEN'S EQUAL ACCESS TO, AND EQUAL OPPORTUNITIES IN, POLITICAL AND PUBLIC LIFE -INCLUDING THE RIGHT TO VOTE AND TO STAND FOR ELECTION -AS WELL AS EDUCATION, HEALTH AND EMPLOYMENT. STATES PARTIES AGREE TO TAKE ALL APPROPRIATE MEASURES, INCLUDING LEGISLATION AND TEMPORARY SPECIAL MEASURES, SO THAT WOMEN CAN ENJOY ALL THEIR HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS.

THE CONVENTION IS THE ONLY HUMAN RIGHTS TREATY WHICH AFFIRMS THE REPRODUCTIVE RIGHTS OF WOMEN AND TARGETS CULTURE AND TRADITION AS INFLUENTIAL FORCES SHAPING GENDER ROLES AND FAMILY RELATIONS. IT AFFIRMS WOMEN'S RIGHTS TO ACQUIRE, CHANGE OR RETAIN THEIR NATIONALITY AND THE NATIONALITY OF THEIR CHILDREN. STATES PARTIES ALSO AGREE TO TAKE APPROPRIATE MEASURES AGAINST ALL FORMS OF TRAFFIC IN WOMEN AND EXPLOITATION OF WOMEN.

COUNTRIES THAT HAVE RATIFIED OR ACCEDED TO THE CONVENTION ARE LEGALLY BOUND TO PUT ITS PROVISIONS INTO PRACTICE. THEY ARE ALSO COMMITTED TO SUBMIT NATIONAL REPORTS, AT LEAST EVERY FOUR YEARS, ON MEASURES THEY HAVE TAKEN TO COMPLY WITH THEIR TREATY OBLIGATIONS²⁴.

Unofficial Summary of CEDAW

The People's Movement for Human Rights Education (PDHRE) provides the following unofficial summary of CEDAW²⁵.

Article 1

Definition of discrimination against women: any distinction, exclusion, or restriction, made on the basis of sex, with the purpose or effect of impairing the enjoyment by women of political, economic, social, cultural, or civil human rights on equal footing with men.

Article 2

States Parties condemn discrimination against women and undertake to pursue a policy of eliminating it in all its forms. States Parties undertake to: include the principles of equality of men and women in national constitutions; adopt legislation prohibiting all discrimination against women; ensure legal protection and effective remedy against discrimination; refrain from any act of discrimination against women and ensure that no public authorities or institutions engage in discrimination; take measures to eliminate discrimination against women by any person, organization or enterprise; take measures to modify or abolish existing laws, customs and practices which constitute discrimination against women.

Article 3

States Parties shall take all appropriate measures, especially in the political, social, economic and cultural fields, to ensure the full development and advancement of women, for the purpose of guaranteeing them enjoyment of human rights on equal footing with men.

Article 4

Affirmative action measures shall not be considered discrimination. Special measures protecting pregnancy shall not be considered discriminatory.

Article 5

States Parties shall take all appropriate measures: to modify social and cultural patterns of conduct of men and women which are based on ideas of inferiority or superiority or on stereotyped roles for men and women; to ensure that family education includes the recognition of the common responsibility of men and women in raising children.

Article 6

States Parties shall take all appropriate measures to suppress traffic in women and exploitation of prostitution.

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in political and public life and shall ensure equal rights to vote and be eligible for election; to participate in forming government policy and to hold public office; to participate in NGOs.

Article 8

States Parties shall take all appropriate measures to ensure a woman's equal right to represent her government at the international level and participate in the work of international organizations.

Article 9

States Parties shall grant women equal rights to a nationality. Neither marriage nor change of nationality by the husband during marriage shall automatically change the nationality of the wife. Women shall have equal rights with men with respect to their children's nationality.

Article 10

States Parties shall ensure to women equal rights in the field of education. States Parties shall ensure the same conditions for career guidance, access to studies, the same teaching staff and equipment. Stereotyped roles of men and women are to be eliminated in all forms of education. States Parties shall ensure that women have the same opportunities to benefit from scholarships and the same access to continuing education. States Parties shall ensure the reduction of female drop-out rates and shall ensure that women have access to educational information to help ensure health and well-being of families, including information on family planning.

Article 11

States Parties shall take all appropriate measures to eliminate discrimination against women in employment and shall ensure, on the basis of equality of men and women, the same rights to work, to the same employment opportunities, to free choice of employment, to promotion, benefits, vocational training, equal remuneration, equal treatment in respect of work of equal value, the right to social security, unemployment, protection of health. States Parties shall prohibit dismissal on the grounds of pregnancy and discrimination in dismissals on the basis of marital status. States Parties shall take measures to introduce maternity leave with pay or social benefits.

Article 12

States Parties shall take all appropriate measures to eliminate discrimination against women in the field of health care and shall ensure women equal access to health care services and appropriate services in connection with pregnancy.

Article 13

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life and shall ensure the same rights to family benefits, to bank loans, mortgages and other forms of credit.

Article 14

States Parties shall take into account the special problems of rural women and the significant roles they play in the economic survival of their families and shall ensure to them all rights in this convention. States Parties shall ensure equal rights of men and women to participate in and benefit from rural development, and shall ensure to rural women the rights to: participate in development planning; have access to adequate health care facilities and family planning; benefit from social security programs; receive training and education; have access to agricultural credit and loans, marketing, and appropriate technology; receive equal treatment in land reform; and have adequate living conditions, particularly in relation to housing, sanitation, electricity and water supply, transport and communications.

Article 15

Women shall have equality with men before the law. Women and men shall have the same rights regarding movement of persons and freedom to choose residence.

Article 16

States Parties shall take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations and shall ensure equal rights to enter marriage, to choose a spouse, to enter marriage only with full consent, the same rights and responsibilities within marriage and in divorce, the same rights and responsibilities as parents, the same rights to decide on the number and spacing of children, the same rights with regard to ownership of property. A minimum age shall be set for marriage.

Q: WHERE CAN I READ MORE ABOUT REFUGEE WOMEN'S RIGHTS?

LINKS TO COMPREHENSIVE RESOURCES

United Nations High Commissioner for Refugees (UNHCR)

<http://www.unhcr.ch/>

Within UNHCR's website the main source is REFWORLD - a collection of full-text databases representing the most comprehensive and reliable refugee information resource available, drawn from the most current and authoritative sources.

REFWORLD contains UNHCR's official documents, UN official documents, Legal information, bibliographical information and reference material.

REFWORLD's extensive selected bibliography on refugee women (not annotated but does include extensive index terms) is categorized according to the following topics: Protection Concerns, Special Needs, Durable Solutions, Women's Rights, Women's Rights Violations, Training and Reference Materials.

UNHCR's main resource regarding refugee women are:

UNHCR Guidelines on the Protection of Refugee Women, 1991;

UNHCR Sexual Violence Against Refugees: Guidelines on Prevention and Response, 1995.

<http://www.unhcr.ch/refworld/welcome.htm>

The Refugee Women's Legal Group (RWLG)

The Refugee Women's Legal Group (RWLG) was established at the beginning of 1996 by individuals and organizations concerned about the impact of changes in immigration law on women seeking asylum in the UK. Central among its aims is the development of a gendered perspective on refugee law and policy. The aim of this website is to provide practitioners and others working with refugee women access to appropriate sources of information and support to assist in the presentation of individual cases.

RWLG contains annotated links to websites containing case law regarding refugee women in general, FGM, domestic violence and academic resources.

<http://www.rwlg.freeuk.com/main.html>

Women's Commission for Refugee Women and Children

The Women's Commission has a diverse professional staff that operates under the auspices of the International Rescue Committee. The Women's Commission's board of directors and advisors include women working at senior levels in human rights and refugee organizations, as well as in education, medicine, law, journalism, government and communications, and many former refugees.

The Women's Commission is an expert resource and advocacy organization that monitors the care and protection of refugee women and children. It speaks out on issues of concern to refugee and displaced women, children and adolescents, who have a critical perspective in bringing about change but often do not have access to governments and policy makers. It also provides opportunities for refugee women and

youth to speak for themselves through briefings, testimony, participation in field assessments and international conferences.

<http://www.womenscommission.org/>

US Committee for Refugees (USCR)

USCR was founded in 1958 to coordinate the United States' participation in the United Nations' International Refugee Year (1959). In the forty years since, USCR has worked for refugee protection and assistance in all regions of the world.

Website includes:

- Internally Displaced Persons – reference to annotated guiding principles
- Search engine enabling to search the Refugee Resource Network
- Legal information about Trafficking in Women (US legislation only)
- Legal information about “Battered Women and the Criteria for Refugee Status: ‘Private’ Persecution and the Emerging Law of State Responsibilities” including American and non – American case law and endnotes referring to academic literature.

<http://www.refugees.org/>

Human Rights Center: Institute of International Studies, UC Berkeley

Non-annotated bibliography on the following topics: Refugee Rights in general, Women Refugees, Female Circumcision/Genital Mutilation, Women and Human Rights Law, Reproductive Rights, Women's Health and Human Rights, International Gender Studies.

<http://globetrotter.berkeley.edu/humanrights/bibliographies/>

LINKS TO LEGAL DATABASES

United Nations High Commissioner for Refugees (UNHCR)

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<http://www.rwlg.freeuk.com>

EUR-LEX

An official website of the EU containing European Union law:

- Official Journal
- Treaties
- Legislation
- Community legislation in force
- Legislation under preparation
- Case-law
- Documents of public interest

<http://europa.eu.int/eur-lex/en>

International Committee of the Red Cross (ICRC)

The ICRC website contains a database for International Humanitarian Law including specific reference to refugees and displaced persons. Web-site includes:

- International Humanitarian Law (IHL)
- The Law of War
- Treaties
- National implementation of international humanitarian law.

http://www.icrc.org/eng/refugees_displaced_persons

Lawyers Committee for Human Rights (LCHR)

Since 1978, the Lawyers Committee for Human Rights has worked to protect and promote fundamental human rights. Its work is impartial, holding all governments accountable to the standards affirmed in the International Bill of Human Rights. Its programs focus on building the legal institutions and structures that will guarantee human rights in the long term. Strengthening independent human rights advocacy at the local level is a key feature of its work.

The Committee also seeks to influence the U.S. government to promote the rule of law in both its foreign and domestic policy, and presses for greater integration of

human rights into the work of the UN and the World Bank. The Committee works to protect refugees through the representation of asylum seekers and by challenging legal restrictions on the rights of refugees in the United States and around the world.

<http://www.lchr.org/>

The LCHR asylum projects contain Amicus Briefs at:

<http://www.lchr.org/refugee/refugee.htm>

**Women's Human Rights Resources (WHRR) Bora Laskin Law Library
University of Toronto**

Annotated legal database on women's human rights (not necessarily refugee women) including:

- International conventions and related documents regarding women's human rights
- Non-Canadian case law
- Canadian case law
- Canadian national legislation
- Documents by UN bodies and agencies
- Information from NGOs
- Legal Briefs (Canadian and non - Canadian)
- Governmental bodies

<http://www.law-lib.utoronto.ca/diana/>

LINKS TO ANNOTATED BIBLIOGRAPHIES (ACADEMIC RESOURCES)

Human Rights Center: Institute of International Studies, UC Berkeley

<http://globetrotter.berkeley.edu/humanrights/bibliographies/>

Refugee Studies Centre Queen Elizabeth House, University of Oxford

<http://www.qeh.ox.ac.uk/rsp/>

Centre for Refugee Studies (York University Canada)

<http://www.yorku.ca/research/crs/>

The United Nations Scholars' Workstation at Yale University

<http://www.library.yale.edu/un/>

ABRIDGED ANNOTATED BIBLIOGRAPHY

I. HUMAN RIGHTS LAW

- “GUIDE TO INTERNATIONAL HUMAN RIGHTS PRACTICE”, H. Hannum (ed.), (Ardsley, NY: Transnational, 1999)

CONTENT:

- Part 1. Preliminary considerations
 1. An overview of international human rights law / Richard B. Bilder
 2. Implementing human rights: an overview of NGO strategies and available procedures / Hurst Hannum
- Part 2. International procedures for making human rights complaints within the UN system
 3. Treaty-based procedures for making human rights complaints within the UN system / Siân Lewis-Anthony
 4. United Nations non-treaty procedures for dealing with human rights violations / Nigel S. Rodley
 5. Human rights complaint procedures of the International Labor Organization / Lee Swepston
 6. The complaint procedure of the United Nations Educational, Scientific and Cultural Organization / Stephen P. Marks
- Part 3. Regional systems for the protection of human rights
 7. The inter-American human rights system / Dinah L. Shelton
 8. Europe: the council of Europe, the OSCE, and the European Union / Kevin Boyle
 9. The African charter on human and peoples' rights / Cees Flinterman and Evelyn Ankumah
- Part 4. Other techniques and forums for protecting rights
 10. International reporting procedures/ Sandra Coliver and Alice M. Miller
 11. Quasi-legal standards and guidelines for protecting human rights / Jiri Toman
 12. The international and national protection of refugees / Maryellen Fullerton
 13. The role of domestic courts in enforcing international human rights law / Joan Fitzpatrick

- “INTERNATIONAL HUMAN RIGHTS IN CONTEXT: LAW, POLITICS, MORALS: TEXT AND MATERIALS”, P. Alston and H. Steiner (Oxford; New York: Oxford University Press, 2000)

CONTENT:

- Part A. Contemporary Human Rights: Background and Contents.
 1. Introduction to human rights issues and discourse
 2. Up to Nuremberg: background to the human rights movement
 3. Civil and political rights
 3. B. Women’s rights and CEDAW

1. Background to CEDAW: socio-economic context, discrimination, and abuse
2. CEDAW: provisions and committee
3. The public/private divide: discrimination and violence by nongovernmental actors.
4. Economic and social right
 - Part B: What Are Rights, Are They Everywhere, And Everywhere The Same? Challenges To Universalism And Conflicts Among Rights
5. Rights, duties, and cultural relativism
6. Conflicting traditions and rights: illustrations
 - Part C: International Human Rights Organizations
7. The need for international institutions and their challenges to notions of sovereignty
8. Intergovernmental enforcement of human rights norms: the United Nations system
9. Treaty organs: the ICCPR human rights committee
10. Regional arrangements
11. Civil society: human rights NGOs and other groups
 - Part D: States as protectors and enforcers of human rights
12. Interpenetration of international and national systems: internal protection of human rights by states
13. Enforcement by states against violator states
 - Part E: Current Topics
14. Massive human rights tragedies: prosecutions and truth commissions
15. Self-determination and autonomy regimes
16. Globalization, development and human rights

II. REFUGEE LAW

- “THE REFUGEE IN INTERNATIONAL LAW”, G. S. Goodwin-Gill (Oxford: Clarendon Press; New York: Oxford University Press, 1996)

CONTENT:

- Part 1. Refugees
 - 1. Definition and Description**
 - 2. Determination of refugee status: analysis and application**
 - 3. Loss and denial of refugee status and its benefits**
- Part 2. Asylum
 - 4. Non-refoulement**
 - 5. The concept of asylum**
- Part 3. Protection
 - 6. International protection**
 - 7. Treaty standards**
 - 8. Protection in municipal law**
- Part 4. Conclusions
 - 9. The refugee in international law**

III. WOMEN'S HUMAN RIGHTS LAW

- **HUMAN RIGHTS OF WOMEN: NATIONAL AND INTERNATIONAL PERSPECTIVES”, R. J. Cook (Philadelphia: University of Pennsylvania Press, 1994)**

CONTENT:

1. Women's international human rights law: the way forward / Rebecca J. Cook
2. To bellow like a cow: women, ethnicity, and the discourse of rights / Radhika Coomaraswamy
3. What are "women's international human rights"? / Hilary Charlesworth
4. State responsibility goes private: a feminist critique of the public/private distinction in international human rights law / Celina Romany
5. Intimate terror: understanding domestic violence as torture / Rhonda Copelon
6. Why rethinking the sovereign state is important for women's international human rights law / Karen Knop
7. State responsibility under international human rights law to change religious and customary laws / Abdullahi Ahmed An-Na`im
8. Toward more effective enforcement of women's human rights through the use of international human rights law and procedures / Andrew Byrnes
9. State accountability under the convention on the elimination of all forms of discrimination against women / Rebecca J. Cook
10. Toward a more effective guarantee of the enjoyment of human rights by women in the inter-American system / Cecilia Medina
11. Toward a more effective guarantee of women's rights in the African human rights system / Chaloka Beyani
12. African women's economic, social, and cultural rights, toward a relevant theory and practice / Adetoun O. Ilumoka
13. Domestic violence as an international human rights issue / Kenneth Roth
14. The developing approaches of the international commission of jurists to women's human rights / Mona Rishmawi
15. General approaches to domestic application of women's international human rights law / Anne F. Bayefsky
16. Obstacles to women's rights in India / Kirti Singh
17. Challenges to the application of international women's human rights in the Sudan / Asma Mohamed Abdel Halim
18. The impact of structural adjustment programs on women's international human rights: the example of Ghana / Akua Kuenyehia
19. Canadian approaches to equality rights and gender equity in the courts / Kathleen E. Mahoney
20. Equality in the house: women's rights and personal laws in South Asia / Sara Hossain
21. Using the African charter on human and peoples' rights to secure women's access to land in Africa / Florence Butegwa
22. Reproductive rights as human rights: the Colombian case / Isabel Plata
23. The use of international human rights norms to combat violence against women / Joan Fitzpatrick

Q: HOW CAN I FIND OTHER GOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS THAT DEAL WITH REFUGEE WOMEN?

ORGANIZATIONS DEALING WITH REFUGEE WOMEN

LINKS TO INTERNATIONAL NGO'S

Women's Commission for Refugee Women and Children

The Women's Commission has a diverse professional staff that operates under the auspices of the International Rescue Committee. The Women's Commission's board of directors and advisors include women working at senior levels in human rights and refugee organizations, as well as in education, medicine, law, journalism, government and communications, and many former refugees.

The Women's Commission is an expert resource and advocacy organization that monitors the care and protection of refugee women and children. It speaks out on issues of concern to refugee and displaced women, children and adolescents, who have a critical perspective in bringing about change but often do not have access to governments and policy makers. It also provides opportunities for refugee women and youth to speak for themselves through briefings, testimony, participation in field assessments and international conferences.

<http://www.womenscommission.org/>

US Committee for Refugees (USCR)

USCR was founded in 1958 to coordinate the United States' participation in the United Nations' International Refugee Year (1959). In the forty years since, USCR has worked for refugee protection and assistance in all regions of the world.

Website includes:

- Internally Displaced Persons – reference to annotated guiding principles
- Search engine enabling to search the Refugee Resource Network
- Legal information about Trafficking in Women (US legislation only)
- Legal information about “Battered Women and the Criteria for Refugee Status: ‘Private’ Persecution and the Emerging Law of State Responsibilities” including American and non – American case law and endnotes referring to academic literature.

<http://www.refugees.org/>

Amnesty International

Amnesty International is a worldwide campaigning movement that works to promote all the human rights enshrined in the Universal Declaration of Human Rights and other international standards. In particular, Amnesty International campaigns to free all prisoners of conscience; ensure fair and prompt trials for political prisoners; abolish the death penalty, torture and other cruel treatment of prisoners; end political killings and "disappearances"; and oppose human rights abuses by opposition groups. Amnesty International has around a million members and supporters in 162 countries and territories. Activities range from public demonstrations to letter-writing, from human rights education to fundraising concerts, from individual appeals on a particular case to global campaigns on a particular issue. Web-site includes:

- Reports by states, regions and topics
- Extensive links to other human rights organizations and resources

<http://www.amnesty.org/>

Human Rights Watch (HRW)

Human Rights Watch is dedicated to protecting the human rights of people around the world. HRW is an independent, nongovernmental organization, supported by contributions from private individuals and foundations worldwide.

<http://www.hrw.org/>

HRW addresses specifically the issue of protection of refugees at:

<http://www.hrw.org/campaigns/refugees/>

OXFAM

Oxfam is a development, relief, and campaigning organization dedicated to finding lasting solutions to poverty and suffering around the world.

<http://www.oxfam.org.uk/>

LINKS TO UNITED NATIONS AGENCIES

Note: web-sites of all UN agencies can be accessed through: www.unsystem.org

United Nations High Commissioner for Refugees (UNHCR)

<http://www.unhcr.ch/>

United Nations High Commissioner for Human Rights (UNHCHR)

<http://www.unhchr.ch/>

International organization for Migration (IMO)

<http://www.iom.int/>

United Nations Children's Fund (UNICEF)

<http://www.unicef.org/>

UNIFEM

<http://www.unifem.undp.org/>

World Food Program (WFP)

<http://www.wfp.org>

United Nations Development Program (UNDP)

<http://www.undp.org/>

International Labor Organization (ILO)

<http://www.ilo.org/>

UN Division for the advancement of women, Womenswatch

<http://www.un.org/womenwatch/daw/cedaw/>

LINKS TO ORGANIZATIONS DEALING WITH TRAFFICKING IN WOMEN

International Organization for Migration (IOM)

The web-site contains substantial reference to trafficking in migrants including:

- IOM / IOMs policy and responses
- Annotated bibliography
- Gateway to Migration – related information on the internet (e.g. UN resolutions and reports, CIS migration legislation database, migrants' rights)
- Links to related web-sites (in the format of a search engine)

<http://www.iom.int/>

US Committee for Refugees (USCR)

USCR was founded in 1958 to coordinate the United States' participation in the United Nations' International Refugee Year (1959). In the forty years since, USCR has worked for refugee protection and assistance in all regions of the world.

Website contains legal information about Trafficking in Women (US legislation only).

<http://www.refugees.org/>

Coalition Against Trafficking in Women

Web-site includes general information and links to relevant web-sites.

<http://www.uri.edu/artsci/wms/hughes/catw/>

WOMENACTION

A global network that is designed to enable NGO's to engage in the Beijing +5 review process. Contains links to national and regional NGO's worldwide.

<http://www.womenaction.org/>

LINKS TO ORGANIZATIONS DEALING WITH FEMALE GENITAL MUTILATION (FGM)

World Health Organization (WHO/OMS)

The web-site contains extensive materials regarding FGM including:

- WHO Information Pack on FGM containing among other things international legal tools, listing of international NGOs and advocacy groups, Inter-African Committee/ National Committees / other groups and contact persons in Africa and a selected bibliography.
- An on-line version of "Female Genital Mutilation: An Overview" – a book that provides a state-of-the-art review of what is currently known about the practice of female genital mutilation, its prevalence, its short- and long-term consequences for physical and mental health, and the social factors that encourage its perpetuation. Past and present policies aimed at ending the practice are also reviewed in detail. By drawing together a large body of medical and scientific facts, the book aims to provide a firm foundation for action within a climate of strong global consensus that female genital mutilation must end. Some 125 references to the literature are included in this thoroughly researched, scholarly account.
- "Programmes to Date" – a review designed to serve as a programming tool and/or a baseline for monitoring the evolution of FGM elimination efforts. It is also designed to serve as a programming tool for donors and policy makers trying to understand FGM and behavior change, and non-governmental groups implementing anti-FGM programmes.
- Bibliographic Database

<http://www.who.int/frh-whd/FGM>

The Refugee Women's Legal Group (RWLG)

The Refugee Women's Legal Group (RWLG) was established at the beginning of 1996 by individuals and organizations concerned about the impact of changes in immigration law on women seeking asylum in the UK. Central among its aims is the development of a gendered perspective on refugee law and policy. The aim of this website is to provide practitioners and others working with refugee women access to appropriate sources of information and support to assist in the presentation of individual cases.

RWLG contains annotated links to websites containing case law regarding refugee women in general, FGM, domestic violence and academic resources.

<http://www.rwlg.freeuk.com>

International Planned Parenthood Federation (IPPF)

The International Planned Parenthood Federation (IPPF) links national autonomous Family Planning Associations (FPAs) in over 180 countries worldwide. It is registered as a charity in the United Kingdom and is the largest voluntary organization in the world to be concerned with family planning and sexual and reproductive health.

Available is an extensive bibliography.

<http://www.ippf.org/>

Human Rights Center: Institute of International Studies, UC Berkeley

Non-annotated bibliography on the following topics: Refugee Rights in general, Women Refugees, Female Circumcision/Genital Mutilation, Women and Human Rights Law, Reproductive Rights, Women's Health and Human Rights, International Gender Studies.

<http://globetrotter.berkeley.edu/humanrights/bibliographies/>

LINKS TO ORGANIZATIONS DEALING WITH DOMESTIC VIOLENCE

The Refugee Women's Legal Group (RWLG)

The Refugee Women's Legal Group (RWLG) was established at the beginning of 1996 by individuals and organizations concerned about the impact of changes in immigration law on women seeking asylum in the UK. Central among its aims is the development of a gendered perspective on refugee law and policy. The aim of this website is to provide practitioners and others working with refugee women access to appropriate sources of information and support to assist in the presentation of individual cases.

RWLG contains annotated links to websites containing case law regarding refugee women in general, FGM, domestic violence and academic resources.

<http://www.rwlg.freeuk.com>

US Committee for Refugees (USCR)

USCR was founded in 1958 to coordinate the United States' participation in the United Nations' International Refugee Year (1959). In the forty years since, USCR has worked for refugee protection and assistance in all regions of the world.

Website includes: Legal information about "Battered Women and the Criteria for Refugee Status: 'Private' Persecution and the Emerging Law of State Responsibilities" including American and non – American case law and endnotes referring to academic literature.

<http://www.refugees.org/>

LINKS TO ORGANIZATIONS DEALING WITH INTERNALLY DISPLACED PERSONS (IDP)

Women's Commission for Refugee Women and Children

The Women's Commission has a diverse professional staff that operates under the auspices of the International Rescue Committee. The Women's Commission's board of directors and advisors include women working at senior levels in human rights and refugee organizations, as well as in education, medicine, law, journalism, government and communications, and many former refugees.

The Women's Commission is an expert resource and advocacy organization that monitors the care and protection of refugee women and children. It speaks out on issues of concern to refugee and displaced women, children and adolescents, who have a critical perspective in bringing about change but often do not have access to governments and policy makers. It also provides opportunities for refugee women and youth to speak for themselves through briefings, testimony, participation in field assessments and international conferences.

<http://www.womenscommission.org/>

Web-site contains a concept paper "The Gender Dimensions of Internal Displacement: Review of Program and Policies" which includes an excellent annotated bibliography on gender and internally displaced women.

<http://www.womenscommission.org/>

International Committee of the Red Cross (ICRC)

The ICRC web-site contains a database for International Humanitarian Law including specific reference to refugees and displaced persons. Web-site includes:

- International Humanitarian Law (IHL)
- The Law of War
- Treaties
- National implementation of international humanitarian law.

http://www.icrc.org/eng/refugees_displaced_persons

The ICRC 'Refugees and internally displaced persons' section includes ICRC's publications on the issue at:

http://www.icrc.org/eng/refugees_displaced_persons

US Committee for Refugees (USCR)

USCR was founded in 1958 to coordinate the United States' participation in the United Nations' International Refugee Year (1959). In the forty years since, USCR has worked for refugee protection and assistance in all regions of the world.

Website includes Reference to annotated guiding principles.

<http://www.refugees.org/>

LINKS TO ORGANIZATIONS DEALING WITH TRAINING IN REFUGEE LAW

The People's Decade of Human Rights Education (PDHRE)

The People's Decade of Human Rights Education (PDHRE-International) is a non-profit, international service organization that works directly and indirectly with its network of affiliates — primarily women's and social justice organizations — to develop and advance pedagogies for human rights education relevant to people's daily lives in the context of their struggles for social and economic justice and democracy. The organization is to publishing and disseminating demand-driven human rights training manuals and teaching materials, and otherwise servicing grassroots and community groups engaged in a creative, contextualized process of human rights learning, reflection, and action.

<http://www.pdhre.org>

United Nations High Commissioner for Refugees (UNHCR)

<http://www.unhcr.ch/>

Lawyers Committee for Human Rights (LCHR)

Since 1978, the Lawyers Committee for Human Rights has worked to protect and promote fundamental human rights. Its work is impartial, holding all governments accountable to the standards affirmed in the International Bill of Human Rights. Its programs focus on building the legal institutions and structures that will guarantee human rights in the long term. Strengthening independent human rights advocacy at the local level is a key feature of its work.

The Committee also seeks to influence the U.S. government to promote the rule of law in both its foreign and domestic policy, and presses for greater integration of human rights into the work of the UN and the World Bank. The Committee works to protect refugees through the representation of asylum seekers and by challenging legal restrictions on the rights of refugees in the United States and around the world.

<http://www.lchr.org/>

¹“*Prevention of Sexual and Gender-Based Violence*”, The Protection Foundation Learning Programme, (UNHCR; Geneva, Switzerland; 2001) (unpublished).

² B. A. Garner (ed.) “*Black’s Law Dictionary*” (Seventh Edition) (West Group; St. Paul, Minn.; 1999).

³ <http://www.un.org/rights/dpi1772e.htm>

⁴ <http://www.un.org/rights/dpi1772e.htm>

⁵ <http://www.un.org/rights/dpi1772e.htm>

⁶ *West’s Encyclopedia of American Law* at <http://www.wld.com/conbus/weal/wintl1law.htm>

⁷ H. Hannum, “*Guide to International Human Rights Practice*” (Second Edition) (University of Pennsylvania Press; Philadelphia; 1992), 10.

⁸ The definitions are based on definitions of related terms contained in B. A. Garner (ed.) “*Black’s Law Dictionary*” (Seventh Edition) (West Group; St. Paul, Minn.; 1999).

⁹ H. Hannum, “*Guide to International Human Rights Practice*” (Second Edition) (University of Pennsylvania Press; Philadelphia; 1992), 8.

¹⁰ H. Hannum, “*Guide to International Human Rights Practice*” (Second Edition) (University of Pennsylvania Press; Philadelphia; 1992), 9-12.

¹¹ L. Henkin, “*How Nations Behave: Law and Foreign Policy*” (New York; Published for the Council on Foreign Relations by Columbia University Press; 1979), 42.

¹² H. Hannum, “*Guide to International Human Rights Practice*” (Second Edition) (University of Pennsylvania Press; Philadelphia; 1992), 11.

¹³ For more details on signatures, ratifications and accessions to CEDAW see: The United Nations Division for the Advancement of Women web-site at <http://www.un.org/womenwatch/daw/cedaw/states.htm>

¹⁴ *Regina v. Bartle and the Commissioner of Police for the Metropolis and Others Ex Parte Pinochet* (On Appeal from Divisional Court of the Queen's Bench Division) 38 I.L.M. 430 (1999).

¹⁵ The information in this section is extracted from *PICT, The Research Matrix*. However, the text has been significantly edited and modified. For full, original, text see: <http://www.pict-pcti.org/matrix/matrixhome.html>

¹⁶ For more details on the progress of the ratification of the Rome Statute which governs the ICC and for more details on the ICC itself see the web-site of Lawyers Committee for Human Rights (LCHR) at <http://www.lchr.org/IJP/icc.htm>

¹⁷ <http://www.unhchr.ch/html/menu6/2/fs7.htm>

¹⁸ <http://www.un.org/rights/dpi1774e.htm>

¹⁹ H. J. Steiner and P. Alston, *“International human rights in context: law, politics, morals: text and materials”* (Oxford; Clarendon Press; New York; Oxford University Press, 1996), 599.

²⁰ However, the text has been significantly edited and modified. For full, original, text see the United Nations Department of Public Information web-site at <http://www.un.org/rights/dpi1772e.htm>

²¹ <http://www.un.org/rights/dpi1772e.htm>

²² For “Documents on the Special Rapporteur of The Commission on Human Rights on Violence Against Women; Its Causes and Consequences” see:

<http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/SRwomen+En?OpenDocument>

²³ The Special Rapporteur has a mandate to collect and analyze comprehensive data and to recommend measures aimed at eliminating violence at the international, national and regional levels. The mandate is threefold: 1. To collect information on violence against women and its causes and consequences from sources such as Governments, treaty bodies, specialized agencies and intergovernmental and non-governmental organizations, and to respond effectively to such information. 2. To recommend measures and ways and means, at the national, regional and international levels, to eliminate violence against women and its causes, and to remedy its consequences. 3. To work closely with other special rapporteurs, special representatives, working groups and independent experts of the Commission on Human Rights.

For “Documents on the Special Rapporteur of The Commission on Human Rights on Violence Against Women; Its Causes and Consequences” see:

<http://www.unhchr.ch/huridocda/huridoca.nsf/FramePage/SRwomen+En?OpenDocument>

²⁴ <http://www.un.org/womenwatch/daw/cedaw/>

²⁵ <http://www.pdhre.org/conventionsum/cedaw.html>