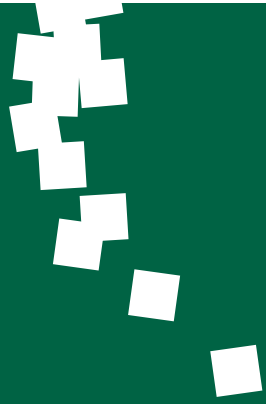
Addressing the Needs of Women Affected by Armed Conflict

An ICRC Guidance Document



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INTRODUCTION

Background and aim

In recent years, much attention has been devoted by international organizations, non-governmental organizations (NGOs), academics and certain governments to the **plight**, **needs** and **rights** of women affected by armed conflict. For example, the International Committee of the Red Cross (ICRC) published *Women Facing War* (2001), a study on the impact of armed conflict on women; the United Nations Security Council adopted Security Council Resolution 1325 on "Women, Peace and Security" (2000) which resulted in the production of a number of studies on this theme, by the Division for the Advancement of Women (2002) and UNIFEM (2002).

Such studies have done much to **raise awareness** of the way women are affected by armed conflict and how States and organizations have responded to their plight. Recommendations as to how to ensure the most appropriate responses to the needs of women have also ensued. However, for such work to be truly effective, it needs to be adapted for those who operate in situations of armed conflict. The aim of this Guidance Document is to provide a working tool to ensure the provision of appropriate programmes and services to, and with, women affected by armed conflict. Thus it is intended for a specific **target audience**, namely ICRC policy-makers and field staff, and does not aim to meet the needs of a more generalist reader. It is, however, also a way of sharing the ICRC's experience of working with women (best practices and lessons learned) with staff of other international organizations concerned with the planning, funding and implementation of humanitarian programmes for women. The document aims to be a thought-provoking and challenging guide for the reader. As such, ***italicized questions and issues*** have been included to indicate appropriate points to contemplate a response to the problems presented.

Furthermore, this document presents the reader with an overview of the **relevant legal framework** affording protection to women in situations of armed conflict, namely international humanitarian law (IHL), human rights law and refugee law. National law, although not addressed here, is also relevant. The reader should be aware that IHL only applies in countries experiencing armed conflict, either international or non-international. In other situations, national law, applicable human rights and refugee law are the proper frame of reference. The aim of the legal sections in this document is to outline the extensive **general** and **specific protections** to which women affected by armed conflicts are entitled.

To keep the text concise, the main legal provisions have been outlined without entering into details. This text should be seen as a complement to and coherent with the structure of the ICRC *Women Facing War* study, which should be referred to for a more in-depth enquiry into specific problems confronting women and the law affording them protection. Although the principles remain the same, **different rules** apply in **international** and **non-international** armed conflicts. If seeking greater legal detail, the reader should consult the **Annex: "General and Specific Protection of Women under International Humanitarian Law"**.

Methodology

This document should be employed as a working tool to improve humanitarian activities and services for women affected by armed conflict. Concise background information is provided at the start of each sub-section (**"Overview"**) enabling readers to focus on suggested guidance, rather than on problem description, which is readily available in numerous other texts. The **"Practical examples"** aim to increase comprehension of a problem by placing it in a realistic context. Practitioners can thus compare and contrast the scenario with situations they are currently facing and employ it as a basis for developing appropriate responses, whilst recognizing that the approach illustrated in the example will not be appropriate in all places or at all times. Clearly, responses must be **adapted to the situation** at hand, based upon a solid analysis of the prevailing challenges and opportunities that exist. The examples are premised upon real situations encountered in the course of the ICRC's work or in research preparatory to the *Women Facing War* study. While they provide the reader with a concrete reference point, they are simply included for illustrative, instructive purposes and do not represent the only ways to respond. Nor do the scenarios aim to canvass the whole spectrum of issues invoked. Rather, they serve to pinpoint specific facets of what are frequently complex and multi-faceted problems. Specific dates and places have been omitted to encourage the reader to think about appropriate and inappropriate responses to particular issues, rather than about the surrounding political or cultural setting.

The ICRC aims to acknowledge that women are affected by armed conflict in dinstinct ways, rather than to prioritize women over other categories of victim. Indeed, it is the mandate of the ICRC to protect and assist **all victims** with impartiality, according to their level of vulnerability and need. As such, the structure of this Guidance Document revolves around the **needs** of the affected population. Various needs have been grouped according to their predominant feature. However, there are clear links between many of the sections. Safety concerns, for example, are tied to the question of access to food and water. Consequently, security issues recur

in other sections, though for the sake of brevity the main elements are addressed in the section entitled "Safety" and not repeated.

The focus of this document is on women not **gender**. The term "gender" refers to the culturally expected behaviour of men and women based on roles, attitudes and values ascribed to them on the basis of their sex, whereas the term "sex" refers to biological and physical characteristics. Gender roles vary widely within and between cultures, and depend on the particular social, economic and political context.

ICRC policies and programmes are directed towards meeting the needs of women rathen than towards gender for several important reasons.

- The first relates to the **unique mandate** of the ICRC, namely to protect the lives and dignity of victims of armed conflict and internal strife and to provide them with assistance, and to act as guardian and promoter of international humanitarian law. The ICRC is not mandated to engineer social change with respect to the status of either sex in the cultures in which it works. In light of this, the gender policies embraced by other organizations, such as those with a human rights mandate, are inappropriate for the ICRC.

- Secondly, as a **neutral**, impartial and apolitical institution, it is not the role of the ICRC to engage in controversies of an ideological, religious or political nature, such as the debate about gendered power relations. Highlighting social inequalities in terms of rights and resources and pushing to establish a balance in power relations is a political act incompatible with the neutrality principle.

- Thirdly, it is true that **men** also experience armed conflict in ways specific to their sex and gender. However, this question has not been a central focus of the present document or of the ICRC's work on women and war. While the gender approach would require a study of the roles of both men and women in their social relations, the focus of this document is on the specific plight and needs of women.

The fact that the ICRC does not have policies on transforming gender relations does not mean it is unaware of the insights a gender analysis can provide. For the ICRC, the aim of such an analysis is to achieve a better understanding of the plight and factors of vulnerability facing women caught up in armed conflict, with a view to more appropriately responding to their needs. It is hence appropriate for the ICRC to consider the socio-cultural roles attributed to the different sexes in the different

societies in which it works, and the impact of armed conflict on the evolution of these roles. One such impact, of particular relevance to ICRC operations, is the question of being able to access different members of the population. While it is not the aim to push for the transformation of socio-cultural norms, ICRC programmes often have an indirect influence in this respect by improving the socio-economic position of the women it assists. Under the auspices of this nuanced approach, namely distinguishing gender as an **analytical tool** from gender as a **policy**, the ICRC's work with and for women is coherent with its mandate and fundamental principles.

Owing to its distinctive nature, the question of **detention** is addressed separately (Part II). This is due to the fact that persons deprived of their freedom are reliant upon the detaining authority for their basic sustenance and maintenance needs and to the fact that the ICRC has a special mandate in relation to detention. Persons in detention experience a radically different environment from persons whose freedom has not been restricted. The response adopted by humanitarian actors also differs, as they are working with specific interlocutors (namely, detaining authorities). Moreover, as parties to a conflict are responsible for maintaining minimum conditions of detention, non-compliance may be due to **limited resources**. Such situations call for a different response from cases of intentional **violations**. Guidance is provided to assist practitioners to recognize these distinctions, as well as issues specific to women deprived of their freedom.

For those seeking **further resource material**, the bibliography of this document provides a list of publications. Please note that in citing such material, the ICRC is not endorsing its contents but simply providing ease of reference for readers.

Plight of women affected by armed conflict

The conclusions of the *Women Facing War* study show that women's experience of armed conflict is **multi-faceted**: it means separation, loss of relatives, physical and economic insecurity, an increased risk of sexual violence, wounding, detention, deprivation and even death. In all conflicts, women suffer in ways specific to women. Yet they should not be seen as a homogenous group; different women will have different needs, vulnerabilities and coping mechanisms. Women in armed conflict are not passive and **not necessarily "victims"**. Around the world, women become members of the regular armed forces, armed groups or their support services. Moreover, women are engaged as politicians, leaders of NGOs and active campaigners for peace.

Why is it important, from a practical perspective, to understand the multi-dimensional reality of war for women?

Essentially, the effect of war on women is not only determined by the character and stage of the conflict, but also by the particular role of each woman caught up in it. Certainly, it is significant to recognize the general needs of women, but it is also vital to respond to women's specific needs – be they combatants, persons deprived of their freedom, refugees, internally displaced persons (IDPs), mothers and/or members of the civilian population.

On the whole, **public international law** (in particular international humanitarian law, human rights law and refugee law) adequately addresses the needs of women in all of these situations. The challenge lies in translating the law into practice by ensuring implementation of and respect for the existing rules. From an operational perspective, many steps can be taken to maximize the legal protection afforded to women in situations of armed conflict. For example, making international humanitarian law better known to all parties involved in armed conflict; monitoring and ensuring respect for the law; and placing emphasis on the general and specific protection that international law affords to women. Through communication activities and dialogue with parties to armed conflict it is possible to raise the profile of problems specific to women, with a view to enlisting official support and action to prevent or put an end to violations.

To clarify that this focus on women in no way negates the **needs of men**, two key points should be considered. Firstly, the plight of women is inextricably linked to that of their menfolk: not only are they part of the same families and communities, in wartime men are often targeted through the women close to them. The fate of women can thus be improved through full respect of the rules of international humanitarian law protecting both combatants and non-combatants, be they male or female. Secondly, it may be that assisting men indirectly improves the plight of women. For example, the release of men who have been taken as prisoners of war or who are otherwise deprived of their freedom may ease the emotional and economic burdens of women left unaccompanied in war zones, and may reduce their exposure to violence.

In addition, the very notion of **vulnerability** demands an appreciation of what makes people vulnerable. This differs according to whether one is male or female, adult or child, rich or poor, deprived of freedom, displaced or a member of the civilian population generally. As women and men have different, culturally-determined social roles, they experience conflict in different ways. It is imperative to recognize these diverse factors of vulnerability and their consequences in order to adapt responses accordingly. At the same time, it must be appreciated that war precipitates changes in traditional roles, which are fluid rather than frozen in time.

For example, in wartime, women demonstrate daily their resilience and coping mechanisms such as the capacity to engage in enterprise in the public sphere to sustain families. This shows that while everyone is responsible for improving the plight of women in wartime, there are significant benefits in ensuring that women themselves are involved in all measures taken on their behalf.

Although women are not vulnerable as such, they are often at risk in conflict situations. Women are particularly susceptible to the marginalization, poverty and suffering engendered by armed conflict, especially when they are already victims of discrimination in peacetime. Women may also be at risk by virtue of the fact that they are often portrayed as symbolic bearers of their cultural or ethnic identity, and as producers of future generations. The degree of vulnerability depends on the nature of each specific situation. ***Consider, for example, the different factors of vulnerability facing pregnant women, nursing mothers, mothers of small children, female heads-of-household and young girls.***

In the specific case of **girls**, physical and psychological abuse, a heavy workload and reproduction-related health problems befall countless girls throughout the world and continue or increase during armed conflict or internal strife. The number of both boys and girls forcibly recruited or voluntarily enlisted in armed conflict is high, despite the fact that it is a clear violation of international humanitarian law. Girls are entitled to both general protection under the Geneva Conventions and their Additional Protocols, and to specific protection on the basis of their age and sex. Activities to address the problem of children affected by armed conflict are numerous and are continually being developed. It is not the purpose of this document to reproduce that work, but merely to encourage the reader to be conscious of the issue. Although this text refers exclusively to women, much of its content is equally applicable to girls.

Furthermore, one of the aspects to consider when assessing the factors of vulnerability facing a civilian population is whether a community is urban or rural. Sensitivity to local **context** and **culture** is crucial to understanding and responding to the effects of conflict. The process of working with women's groups to identify the needs and priorities of women must extend beyond cities and reach out into remote rural areas. Women in agricultural communities may be particularly reluctant to leave the land, which provides their essential sustenance needs. Nonetheless, migration and displacement increases significantly in turbulent times. Conflict often compels women to flee their land, and they may find themselves ill-equipped for urban life. They may, for example, be disadvantaged by lower levels of education, which reduce their prospects of procuring gainful employment. Conscious efforts must be made by humanitarian agencies to reach women in indigenous or rural communities

affected by armed conflict, especially because conflict both increases the need for assistance (including health care), and reduces access to it.

Towards a better response to the needs of women

The ICRC's experience of working with women reveals that the following **tools** and **techniques** can stimulate progress towards developing better responses to the needs of women.

Training programmes for staff employed by humanitarian agencies, including role-plays simulating the interaction between affected populations and humanitarian actors, serve to reinforce key messages. Such training can improve the response to problems such as sexual violence, which is a question not only of expertise in medical and protection issues, but also of developing a rapport based on trust and confidence, which fosters dialogue. If staff members are not able to undergo such training, support can be provided in the form of written, electronic and visual materials. For example, material on relevant case studies and best practices should be produced and distributed.

Understanding the law affording protection to women must be an integral component of such training programmes. This reinforces the reality that women's specific protection is neither abstract nor contentious, but conversely flows from a concrete, well-established legal regime. Knowledge of this legal framework equips practitioners to persuasively make the case for protecting the rights, and responding to the needs, of women. It must be clearly understood that the physical and psychological integrity and dignity of women must be protected, and that the Geneva Conventions, their Additional Protocols and other bodies of law afford this protection to women. In order to strengthen such protection, this part of the law must be emphasized, disseminated and enforced, in times of peace as well as war. Humanitarian organizations must do their utmost to remind parties to an armed conflict of their obligations under international humanitarian law.

Techniques for improving the **dissemination** of international law with respect to women include:

- ensuring publications distributed to bearers of weapons, including peace-keeping and peace-enforcement and support personnel, contain references to women as well as men in various roles. For example, the juxtaposition of men as combatants and women as civilians, in text and photographs, neglects the fact that men often comprise part of the civilian population and women are

often actively engaged in military efforts or deprived of their freedom in relation to armed conflict;

- presenting key messages in culturally familiar and interesting ways, as well as in appropriate languages and in a manner suitable for those who are illiterate or have low literacy levels;

- using the local and international media and appropriate communication events. For example, International Women's Day, March 8th, can be used to raise the profile of women's issues and to transmit a strong message;

- spreading the knowledge that sexual violence, a crime affecting both men and women, adults and children, is categorically prohibited at all times, while emphasising that it is the perpetrator who is "dishonoured" rather than the victim, or her/his family;

- systematically including specific mention of the prohibition on all forms and threats of violence against civilians and persons deprived of their freedom, including sexual violence, in military codes, training manuals and instructions given to arms bearers.

Access to those affected by armed conflict and to conflict-affected areas is essential. This may sound obvious, but it is something that humanitarian organizations must continually negotiate with parties to armed conflict. Any attempt to improve the protection and assistance of women affected by armed conflict must take this into account. Humanitarian agencies are often denied access to areas when and where the worst abuses against protected populations are taking place. Capacity for negotiating access with the relevant authorities is instrumental to ensuring effective interventions on behalf of those in need. Another factor limiting or precluding the access of humanitarian personnel is that of **security**. The security of humanitarian workers operating in conflict-affected areas is a pre-requisite to the success of operations.

To ensure a range of perspectives, teams must be comprised of a mixture of both **male and female staff** and, where possible, nationals and expatriates. However, it is important to be aware that in certain cultures there may be constraints surrounding the employment of women, stemming from local taboos. These commonly include prohibitions on women engaging in work outside the home, travelling away from their communities, or mixing with men to whom they are not related. Employing women or ethnic minorities may also pose problems for the organization, if it is not well-perceived or understood by the wider community.

The **inclusion of women** (both those receiving assistance and those responsible for providing it) in the assessment, implementation and monitoring of programmes is a tool to more appropriately define women's needs, and ensure their effective involvement. This in turn ensures more effective and sustainable programming, and minimizes the potential for exploitation and abuse. Nonetheless, the fact that women should be involved does not mean that the protection and assistance of women affected by armed conflict is the sole responsibility of female staff. Both men and women providing such services and programmes must take into consideration the general and specific needs of women.

Improved **fact-finding** and **reporting techniques** can strengthen the capacity of an organization to monitor violations against women. These should include, wherever possible, the use of female protection personnel, medical staff and interpreters during interviews and their follow-up. Staff members should be trained in culturally appropriate listening skills and interview techniques and, where appropriate, culturally sensitive counselling for trauma.

Techniques for creating an **environment** that facilitates the ability to listen to and collect information from victims include:

- establishing a safe place to report violations, free from the presence of persons who could possibly exert pressure/undue influence on the victim;
- demonstrating cultural sensitivity and awareness;
- allowing sufficient time for a sensitive and meaningful dialogue;
- ensuring the security of the collected information and respect for the rules of data protection;
- ensuring confidentiality, to respect the individual's privacy and allay concerns about personal matters being transmitted to third parties without his/her consent;
- fostering an understanding by the local media and by civil society, including grassroots NGOs and women's organizations, of the role of international humanitarian organizations;
- identifying appropriate military and political interlocutors in order to report violations and to call for implementation of and respect for IHL.

Information should not be collected when there is a reason to believe, or experience suggests, that it might put the person in danger.

Wherever possible, information collection should be an integral part of other activities (such as assistance and medical care). Use of **disaggregated statistics**, involving a breakdown according to the sex and age of beneficiaries, is a tool for monitoring the extent to which certain demographic groups (such as women, children, the elderly) are being reached through programmes and to facilitate the targeting of the most vulnerable within a given population.

Finally, in circumstances where there is no direct access to persons affected by armed conflict, information can be obtained from **alternative sources** such as social and religious organizations, health structures or women's associations. Local women's associations are helpful partners in determining responses. It is important to share information and build upon any pre-existing women's network, albeit informal. Such associations can provide an invaluable insight and entry-point into the local context and culture. At the same time, humanitarian organizations should, where appropriate, target for dissemination members of "grassroots women's associations" in order to increase their knowledge of the legal protection afforded to women. This also provides a potential vehicle for reaching and conveying information to family members, especially those in the armed forces, who may not otherwise be accessible. In this way, local women's groups can become vectors for the transmission of information. Indeed, the central position of women in the family and community, and their role as educators, needs to be harnessed to its full potential as a means of transmitting key humanitarian messages to as wide an audience as possible.

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PART I: CIVILIAN POPULATION

1.1 PERSONAL SAFETY

1.1.1 Overview

Personal safety encompasses safety from dangers, acts of violence or threats thereof against members of the civilian population not or no longer taking a direct part in hostilities. Violence – physical or mental harm – includes: killing, summary and arbitrary execution, torture and mutilation, cruel, inhuman and degrading treatment, rape and violations specifically directed against women such as forced impregnation, forced pregnancy, forced termination of pregnancy, enforced sterilization and other forms of sexual assault.

Everyone is entitled to live free from "ethnic cleansing", forced displacement, abduction, arbitrary detention, forced disappearances, trafficking, slavery (including sexual slavery), persecution, harassment and discrimination. The civilian population must be protected against dangers arising from the conduct of hostilities and acts that aim to spread terror. The broadening scope of violence that characterizes contemporary conflict poses acute dangers for civilians: the more difficult it is to differentiate between combatants and civilians, the more vulnerable civilians become. Anything that blurs the **distinction between civilians and combatants** puts civilians at risk. It is important to understand the threats facing women in the context of each specific conflict, pertaining to the character of the conflict, the parties and actors, the aims of the conflict and the primary targets or victims.

Certain methods and means of warfare have a serious impact on the **environment**, which in turn imperils the safety and means of survival of the civilian population. The preservation of the natural environment, and of public and private property indispensable to the survival of the population, is paramount.

Please note that many of the issues discussed more specifically in this document also relate to the safety of women (sexual violence, freedom of movement, displacement, etc).

Relevant legal framework

International humanitarian law (IHL) seeks to ensure the personal safety of women in situations of armed conflict in two principal ways:

- by regulating methods and means of warfare in order to protect civilians from the effects of hostilities;

- by prohibiting specific acts or threats of violence against civilians or persons who are not or are no longer taking an active part in hostilities, such as murder, torture and rape, by parties to armed conflict.

Parties to armed conflict must conduct hostilities in such a way as to spare the civilian population as far as possible from the effects of hostilities. This is reflected in the principle of distinction, the cornerstone of IHL, which requires parties to an armed conflict to distinguish at all times between civilians and combatants and not direct attacks against civilians or civilian objects. **Indiscriminate** attacks, which although not intentionally targeting civilians are of a nature to strike military and civilian objects or persons without distinction, are prohibited. Also considered indiscriminate are attacks that cause civilian injury or loss of life or damage to civilian property, which is excessive in relation to the concrete and direct military advantage expected.

Equally important for shielding civilians from the effects of hostilities are the rules prohibiting the use of certain weapons. These are weapons that are intrinsically indiscriminate or which can continue to cause injury long after their deployment, such as chemical and biological weapons as well as anti-personnel mines.

Parties to an armed conflict are required to ensure the **humane treatment** of all persons within their power (including security of life and person and fundamental judicial guarantees). The provisions requiring humane treatment make special reference to women. Women must be especially protected against rape, enforced prostitution and any other form of indecent assault. Persons not taking part in hostilities must be treated humanely with no adverse distinction on the grounds of, *inter alia*, sex.

Human rights and refugee law also protect women's personal safety. Human rights law enshrines the **right to life**, the **prohibition on torture, cruel, inhuman and degrading treatment** or punishment. No derogation from these rights is permissible, even in times of public emergency. States are under a duty not to infringe these rights themselves and to protect them from infringement by others.

Of the human rights conventions dealing specifically with women's rights, the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women prohibits conduct based on gender, which inflicts death or physical, sexual or psychological suffering upon women in the public or private sphere.

The Convention is very wide in scope, enshrining women's right to be free from violence, whether it occurs within the family or community, or whether it is perpetrated or condoned by the State or its agents.

Finally, mention should be made of the Convention on the Prevention and Punishment of Genocide, which includes within the scope of the crime "measures intended to prevent births within a group". This illustrates that attacks against women, performed with the intention to destroy in whole or in part a national, ethnical, racial or religious group as such, can constitute genocide.

Refugee law also enshrines women's right to personal safety. First, the principle of *non-refoulement*, which also finds expression in the Fourth Geneva Convention and which prevents States from sending persons to a place where they will face a risk of persecution, provides very immediate personal safety. Secondly, the very definition of a refugee in the relevant international instruments, which mention fear of persecution for a number of specific reasons, are based on the need to flee from violations of, or threats to, personal safety. The link between refugee status and the protection of personal safety is even more apparent in more recent instruments, such as the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa or the 1984 Cartagena Declaration on Refugees, which extend the definition of "refugee" to include persons who have left their State of origin owing to external aggression, occupation, internal conflict or large-scale violations of human rights. An important development in the field of refugee law is the increasing tendency to recognize persecution specifically aimed at women as grounds for entitlement to refugee status.

1.1.2 Points to consider

States and other parties to an armed conflict have primary responsibility to **protect** civilians. The presence of impartial humanitarian actors should be encouraged in situations where the parties are unable or unwilling to fulfil their obligations and people have no one to turn to for protection. It must be borne in mind, however, that the presence and regular visits of humanitarian organizations is not necessarily a guarantee of protection.

Actions to **prevent** violations against the safety of the individual include advocacy by humanitarian and human rights organizations for the adoption by States of legal instruments that provide for the protection of women in situations of armed conflict, coupled with dissemination of existing legal obligations.

It is essential to understand how security situations and needs may differ for men and women, boys and girls, in order to best respond to violations against specific groups.

In what ways does the question of personal safety pose problems specific to women?

As women are not generally recruited to fight, they remain largely unarmed and unprotected at a time when traditional forms of moral, community and institutional safeguards have disintegrated and weapons abound. Women working in forests or fields are among the victims of anti-personnel mines and unexploded ordnance. Furthermore, women who are wives, mothers, sisters or daughters of combatants, although civilians themselves, may be specifically targeted to put pressure on one party, or as a form of retaliation. Women who are forced to feed and shelter arms bearers are subjected to the risk of not only violence resulting from the presence of arms bearers in their homes, but also from reprisals by those in opposition, who may incorrectly perceive them to be combatants themselves or collaborators. Furthermore, feeding and housing arms bearers may stretch scant resources to the limit. This may pose acute problems for women, who generally have a lower social and economic status than men.

The problem of scarce resources is exacerbated by the fact that threats to personal safety often hamper women's **access** to those able to provide them with **assistance**. Women cannot realistically access services unless they know they will be safe. For example, women may fear reprisals by their own community for transgressing cultural limitations on mobility (such as going unaccompanied to distribution points); they may be reluctant to leave children unattended in a war-torn region to visit distribution points; or they may hesitate to report any acts or threats of violence committed against them.

This reluctance to report violations often stems from the fact that women may be unused to or ashamed of speaking about such acts. They may feel more comfortable or deem it more appropriate to be interviewed by a woman, through a female interpreter where necessary. Sufficient time and privacy must be granted to women to maximize the possibility for them to speak.

To give women the greatest possible opportunity to **report violations**, the following points should be considered:

- going to the location where women are most comfortable and can report violations. For example, household tasks will still have to be completed, thus going to the home or fields may provide women with greater opportunity to report violations;

- women frequently have their children present when approaching or being approached by international organizations. Attention should be given to ensuring that when women are reporting serious abuses against them, their children are not in the immediate vicinity, as hearing about violations can be damaging to their psychological health;

- interviewing women away from their menfolk, as women may not feel comfortable speaking about violations in front of their husbands, brothers etc. It may also be necessary to negotiate private access to women with the men of their communities, explaining why this is required, so as not to further endanger such women;

- humanitarian organizations should clearly introduce themselves, explain their role, why they seek to conduct an interview and what they will do with the information obtained;

- ensuring that the interview is not overly formal or conducted through closed questions, making the individual feel interrogated or cross-examined;

- follow-up of the security implications of any activities with or for women. Ensuring safety is thus a continuum, not a "one-off" task. For this reason, activities should only be undertaken if it is possible to ensure a follow-up.

Statistics disaggregated on the basis of sex should be regulary and systematically monitored. If such statistics reveal that few women are reporting violations, enquiries should be made to discern why this is so. It may be the case that women are not suffering violations, but it is not sufficient to simply rely on this assumption. A thorough analysis should be made to serve as a means of verifying whether the above points are being considered.

In certain cases, categories of women may be identified as particularly at risk within a vulnerable group, such as a minority community. This is particularly true of women heads-of-household and unaccompanied women, including elderly women. Registering these women and following them up individually by visiting them at periodic intervals may have a dissuasive effect on potential perpetrators of violence, though it rarely stops abuses. Such a process requires the ability to be regularly present amongst all vulnerable communities and requires that the purpose of such visits is made transparent to and accepted by all those involved.

The threats to personal safety women face in wartime can jeopardize their physical and psychological well-being. This is compounded by the fact that insecurity stemming from conflict can curtail the capacity of women to access much-needed medical facilities. This may be particularly problematic for women who are seen as affiliated with "the enemy" or who comprise part of a persecuted ethnic or religious minority.

1.1.3 Practical examples

EXAMPLE A

During the conflict in the former Yugoslavia, many women did not flee the hostilities because their families believed that the fact that they were women (often with children) would afford them a greater measure of protection relative to their menfolk, who were the first to be targeted for conscription, arrest or summary execution. They hoped that their sex and their role as mothers and civilians would protect them. Women stayed to safeguard the family's property and livelihood; to care for elderly, young and sick family members who were unable to flee; to keep their children in school; to visit relatives in detention; to search for missing relatives; and even to assess the level of insecurity to determine whether it was safe for displaced family members to return.

What problems can be foreseen relating to this perceived protection? In what ways could it in fact have an adverse impact on women?

This assumption – that as a woman you would be safe – was often not the reality. On the contrary, women were targeted precisely because they were women. For example, women were raped to impregnate them with a child of the nationality of the perpetrator, or to "dishonour" the community that was unable to protect them. And it was not only rape. In some cases, elderly, often bedridden, women left behind by fleeing families were not free from harassment and attack. One elderly lady who remained in the region despite threats, intimidation and the brutal murder of a woman of the same ethnicity in her own home, explained: "I have been displaced twice in the last three years. I cannot flee anymore; I am too old. Every time I do I leave a little of myself behind".

Visiting persons like her, on a regular basis provided reassurance that they were not alone. At the most fundamental level, regular visits provided crucial emotional support and alleviated the fear of one day dying or disappearing without a trace. In this case, the persistent presence of an international organization aimed to protect these women from harm. Food was supplied, minimizing their need to

venture out alone. Interventions with local authorities, to improve the security of isolated women within the community, were also made on their behalf.

EXAMPLE B

A study on arms availability noted that the unregulated transfer of weapons and ammunition often increases tensions and heightens civilian casualties. The proliferation of weapons in the hands of civilians such as children/youths, who are undisciplined and untrained, bestows upon them a sudden and previously unknown power.

What does the proliferation of small arms and light weapons in wartime mean for women?

For women, arms proliferation can mean an increased risk of sexual and domestic violence. In a region of West Africa, elderly women reported that rape by young boys was particularly humiliating and traumatizing as traditionally elders were held in high regard. Such expressions of violence against women were contrary to local values and traditions, and often initiated a cycle of revenge. The combination of the breakdown in the traditional value system and the rising tide of small arms and light weapons seemed to explain these developments. The close proximity of arms bearers caused women to suffer myriad forms of intimidation.

Trauma, unemployment, alcoholism and brutalization resulting from warfare were seen to heighten family tensions and increase the incidence of domestic violence. The severity of such violence was exacerbated by the ready availability of arms.

Inquiries into this phenomenon revealed that while men felt that the possession of arms bequeathed them a sense of security, women regarded them as a threatening presence within their homes. Bearing a weapon was further found to be a culturally accepted attribute of masculinity.

In response, a UN agency launched an initiative to encourage men to surrender weapons in exchange for food. Given that the demand for small arms had been fuelled by unrest and instability, disarming citizens required positive economic and social incentives. In an endeavour to show that women are not only victims but also agents for change, women of the local community were mobilized to participate in the weapons collection programmes. This proved a constructive way of harnessing the aversion of local women to the omnipresence of arms within

their community, to contribute to reversing this trend. To raise the profile of these endeavours, prominent and reputable local figures were invited to attend publicity events heightening the success of such programmes.

1.2 SEXUAL VIOLENCE

1.2.1 Overview

Women are entitled to protection from all forms of sexual violence or threats thereof.

What is meant by "sexual violence"?

It is insufficient to understand sexual violence solely in terms of rape. Sexual violence also encompasses: forced prostitution, sexual slavery, forced impregnation, forced maternity, forced termination of pregnancy, enforced sterilization, indecent assault, trafficking, inappropriate medical examinations and strip searches.

When is sexual violence a method of warfare?

When used systematically to torture, injure, extract information, degrade, threaten, intimidate or punish in relation to an armed conflict, sexual violence can amount to a method of warfare.

What factors increase the risk of sexual violence for women in wartime?

- Women are often unaccompanied during times of armed conflict when their male relatives (who ordinarily comprise part of the social network of protection) have fled the area, are detained, missing or engaged in hostilities.
- Women are usually unarmed, which reduces their ability to resist.
- In many cultures, women are viewed as symbolic representatives of caste, ethnic or national identity. This is often accentuated prior to the outbreak of conflict. Hence an attack against a woman is seen as an assault on the entire community to which she belongs. The defilement of women is viewed as a means of demoralizing, or transmitting a message of intimidation, to their menfolk.
- When the actual combatants are out of reach, sexual violence is a way of attacking the community of the "enemy".
- The proliferation of small arms and light weapons.

- Value systems, judicial mechanisms and social structures have broken down as a consequence of prolonged conflict.
- Widespread sexual violence can be used as a method of warfare to forcibly displace persons and destroy communities.
- Their poverty and lack of resources renders women vulnerable to exploitation in order to meet their basic material needs.
- Some household tasks typically undertaken by women, such as venturing to the forests for firewood or queuing for food, may expose them to risk.

Abduction, **trafficking** and **sexual slavery** are interrelated issues which may be linked, though not exclusively, to armed conflict. Trafficking may increase in a conflict situation owing both to the breakdown of political, legal, economic and social structures and to increased militarization. Women made vulnerable by war are frequently abducted from, or coerced to leave, refugee and displacement camps, or tricked by traffickers when seeking employment. Sexual slavery does not necessarily involve trafficking, though it may be a result of the latter. Sexual slavery may represent a systematic attack upon the civilian population in order to dissolve family and community bonds.

Relevant legal framework

Rape, **enforced prostitution** and any form of **indecent assault** are expressly prohibited by the Fourth Geneva Convention and implicitly prohibited by the prohibitions on torture, cruel, inhuman and degrading treatment and outrages against personal dignity. Sexual violence also falls within the scope of "wilfully causing great suffering or serious injury to body or health", which is a grave breach of the Fourth Geneva Convention. Slavery, in any form, is also proscribed. Acts of sexual violence are self-standing crimes under the Statutes of the International Criminal Tribunal for the former Yugoslavia (ICTY) and the International Criminal Tribunal for Rwanda (ICTR), as well as the Statute of the International Criminal Court (ICC). The jurisprudence of these bodies has reinforced the status of rape as a **war crime** and a **crime against humanity**. These Tribunals have also recognized that acts of sexual violence can constitute torture, inhuman treatment and, in certain circumstances, genocide.

Although numerous human rights instruments deal with violence against women in general – including the 1994 Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women, the 1974 Declaration on the Protection of Women and Children in Emergency and Armed Conflict and the 1993 UN Declaration on the Elimination of Violence against Women – express references to sexual offences and violence are more limited. The Inter-American Convention expressly covers physical, sexual and psychological violence occurring within the family or community, or that is perpetrated or condoned by the State or its agents. Moreover, although this may not be expressly stated in each instrument, sexual violence obviously falls within the prohibitions on torture and cruel, inhuman and degrading treatment in the other human rights instruments.

With respect to **trafficking** more specifically, the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) requires States to take measures to counter the traffic of women. The issue is specifically addressed in the Additional Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children to the Convention Against Transnational Organized Crime. This Protocol requires States to enact domestic legislation criminalizing activities such as sexual exploitation and slavery through trafficking and to take steps to protect and assist the victims.

1.2.2 Points to consider

Sexual violence is **prohibited**; it is **preventable**. This must be recognized and realized. It is important to reiterate whenever and wherever possible that sexual violence is unacceptable and not inevitable. To ensure that no opportunity to convey this message is lost, some humanitarian organizations have even printed the relevant prohibitions on relief parcels for distribution.

Consider the interface between safety and sexual violence.

Women who fear, or have been subjected to, sexual violence may seek to obtain protection and assistance through relations with members of the armed forces. They may submit to allying themselves with one man who would offer them and their dependants protection, rather than risk being subjected to repeated violations by many men. Women need to be protected from having to seek such alliances as their only means of safeguarding themselves and their families. One way to protect women from this sort of exploitation is through the provision of assistance in the short term, and training/support to enable them to attain economic self-sufficiency

in the long term. In addition, representations can be made to the relevant authorities reminding them of their obligations to ensure the protection of isolated women.

When identifying victims of sexual violence, due regard must be given to their particular context. Victims *in situ*, fleeing or in displacement and refugee camps all call for different means of responding to their security needs. In terms of **prevention**, security measures to minimize the risks women face when going in search of firewood, and the provision of adequate lighting within the camps, can reduce the incidence of sexual violence. Women in, or fleeing from, frontline areas have a very limited opportunity to report violations or to access medical facilities. The possibility to intervene in their favour is equally limited.

The exposure of women in displacement camps to rape and other violations can be **reduced** by:

- installing appropriate fencing and lighting to deter night raids;
- locating sanitary facilities appropriately so as to limit women's exposure to abuse;
- providing food which needs limited cooking and types of stoves which reduce the need to collect firewood beyond the perimeters of the camps, thereby minimizing the risk of injury and attack;
- ensuring water collection points are located in a safe place in close proximity to the users;
- ensuring camps are patrolled and secured;
- involving female security officers in the patrolling of camps. (As a principle of general application, the assumption that female authority figures are more sympathetic to the plight of women is only viable if their appointment is accompanied by appropriate training.)

Victims of sexual violence **rarely report** the violations against them, often for fear of reprisals. Efforts must be made to ensure an appropriate environment is provided to receive victims and for them to relate their experiences. Those reporting violations must be made aware of what can and/or will be done with their testimony. For example, if organizations routinely provide information obtained in such interviews to national or international criminal tribunals, this must be disclosed before any

interview is held. The ICRC does not provide information or testimony collected in the course of its work to international or national criminal courts or tribunals, and ICRC personnel cannot give evidence before such bodies. At all times, the will of the victim to prevent information being used in such a process must be respected. If a woman does seek to pursue legal redress, it is important that victim and witness support protection programmes are in place. Where no protection mechanisms exist, international attention may expose women to even greater danger and trauma.

Cultural sensitivity is required when assisting victims of sexual violence. Information should be gathered on traditional forms of community healing, in order to assess how these structures can be complemented by other forms of assistance. Care should be taken to ensure that the provision of any psychological and social counselling is appropriate and does not stigmatize or endanger women further. Their situation needs to be handled **confidentially** and **sensitively**, preferably by trained female staff, including interpreters. It is difficult to foster trust and put the victim at ease when intimate medical consultations are funnelled through a male interpreter.

The need for **confidentiality** stems from:

- the consequences of sexual violence for the victims;
- fear of stigmatization and rejection;
- loss of virginity and the surrounding cultural/religious ramifications;
- fear of sexually transmitted diseases and HIV/AIDS and the isolation often experienced by those suffering from such diseases;
- the need for a humanitarian organization to retain the trust of the community in which it operates.

In addition, many women who have been victims of sexual violence fear subjection to ostracism, physical harm or even death at the hands of their family or community ("honour crimes" against women). Women have been subjected to such treatment because they were considered to have contravened socio-cultural norms related to **honour**. In many countries, victims of sexual violence have been imprisoned on account of conduct perceived to be inappropriate, for their own protection, or because they have nowhere else to go. It is important to work in conjunction with cultural leaders, authorities and grassroots women's groups to counter the

perception that victims of sexual abuse are culpable or outcasts. In some countries, national campaigns through the media, schools, traditional authorities and religious institutions have been launched to question and discourage "crimes of honour" against women. Aside from issues linked to their own and their family's perceived honour, victims of sexual violence may also suffer rejection and stigmatization due to an assumption on the part of their community that they have been infected with HIV/AIDS.

Humanitarian agencies may come into contact with victims of sexual violence when these individuals report security or medical problems. Alternatively, regular visits to hospitals, traditional health providers and women's groups can be carried out in order to gather information about the number of victims of sexual violence they receive, the causes and circumstances of these acts and the sort of assistance and protection they anticipate that humanitarian organizations should provide.

The provision of **assistance**, through better **interaction of protection and medical activities**, can be strengthened if the following issues are considered and understood:

- the legality of, and national health policies regarding, emergency contraception and of terminating a pregnancy in different countries (information which can be obtained from the Ministry of Health);
- ways to provide culturally adapted trauma counselling for victims of sexual violence;
- the necessity of having trained female personnel to assist female victims;
- ways to identify and approach sexually transmitted infections and HIV/AIDS;
- the language used in different cultures to describe sexual violence;
- the signs (behavioural or medical) that such violence has occurred;
- local taboos and laws surrounding the issue of sexual violence.

Victims of sexual violence require rapid access to appropriate and adequate **health care** (including pre- and post-natal care for those who have become pregnant, and post-exposure prophylaxis preventing transmission of HIV/AIDS). Sexual violence

may result in bodily injury, physical disability and reproductive complications including miscarriage. The location and adequacy of health structures and personnel needs to be evaluated and appropriate resources provided to enable national structures to respond to the needs of the victims. Medical personnel need to be equipped to conduct examinations of rape victims to check for sexually transmitted infections and pregnancy, and endeavour to ensure that female patients are attended by female nurses. Referrals to gynaecologists, psychologists and local support groups specialized in assisting victims of rape may also be required. In particularly urgent cases, evacuations to appropriate medical structures may be necessary.

Where women are **pregnant** as a result of rape, options available should be discussed with the woman, regardless of the individual beliefs of the counsellor or medical staff, in order to enable her to make an informed decision. Indeed, an important aspect of assisting victims of sexual violence involves fostering their capacity to make rational and informed choices. Any action on behalf of a victim of sexual violence, whether referral to health services or psychological support groups, representation to the authorities or others, should be carried out only with the express consent of the victim. By helping victims to regain their sense of dignity, by making them feel comforted, listened to and taken seriously, humanitarian organizations can create the conditions for victims to make an informed choice about issues such as whether they will discuss the violation with their family or community; whether they will seek support from religious figures; whether they will go to traditional healers or use traditional medicines for treatment, etc.

Beyond this, sexual violence must be understood as an **ongoing trauma** with repercussions that mar the lives of many women. Victims may suffer anxiety due to living in a community where violations continue to be perpetrated, where they suffer economic distress and where armed conflict remains unresolved. Where rape results in pregnancy, women need continuing support to cope with the physical and social repercussions. Another dimension of sexual violence is that it is often employed to disrupt community life and family relations. Treating the individual victim does not necessarily address this community aspect. Hence programmes and activities should also, where appropriate, work towards reintegrating victims into society through support networks. Account should also be taken of the suffering of close relatives who did not know how to, or could not succeed in, preventing acts of sexual violence and who may have even been forced to witness them.

Thus the **responses** to sexual violence can be summarized as follows:

- medical/health assistance;
- psychological support;
- economic assistance;
- social/community healing;
- reporting violations (in confidence) to the party responsible, with the consent of the victim. The aim of such interventions being to persuade the responsible authorities to take measures that would put a stop to such violations and prevent their reoccurrence.

Children born as a result of sexual violence need to be raised free from neglect and discrimination. It has been contended that the ostracism of children born as a result of rape and the presumed patrilineal ethnicity of the baby have not been dealt with from the perspective of the child, but only from that of the mother. The fate of these children needs to be considered and appropriate protection and assistance provided to them, to foster their physical and psychological well-being.

1.2.3 Practical examples

EXAMPLE A

Is there any danger or disadvantage in designing humanitarian programmes specifically for the benefit of victims of sexual violence?

In the Former Yugoslavia, newly arrived female refugees were gathered together and publicly asked to come forward if they had been raped. A male humanitarian staff member of an NGO used a loudspeaker to invite women who had been victims of sexual violence to approach him and obtain a questionnaire. Not surprisingly, only three volunteered to be identified in this manner. Programmes initiated in such a way risk further endangering victims of rape and isolating them from their communities, by virtue of the fact that they have to be identified as "rape victims" in order to meet the criteria for assistance.

Programmes should avoid branding women who participate in activities as "rape victims". As an alternative approach, destitute women in the community were encouraged to come together to engage in activities such as knitting and sewing. Humanitarian workers went into the villages that had been attacked and met with women who may have suffered sexual violence and directed them to these centres. This doubled as a protective mechanism, as women who would otherwise have been vulnerable to isolation or to violence were invited to participate in the activities conducted by the centre. The benefit was that these community centres consisted of a mixture of women who had and had not been exposed to violence. In this way, there was no stigma designating participants as "rape victims" in the eyes of their community.

Moreover, the women involved stated that they benefited from the opportunity to interact with women with a diverse range of experiences, thereby constituting a community support network and psychosocial support programme for the participants, enabling them to discuss and share their experiences, and speak with other victims.

This illustrates the advantages of going out into the community to engage with women, rather than simply expecting them to come forward.

EXAMPLE B

Why is sexual violence an underreported violation?

Visits to front-line populations in Central Africa, identified that there was widespread rape and sexual abuse of women and girls carried out by arms bearers, including abduction and forced sexual slavery. However, specific allegations were difficult to verify because women were reticent to admit a sexual violation against them owing to:

- fear of a loss of social status or stigmatization (due to being perceived as carrying HIV/AIDS or as having been "dishonoured");
- fear of reprisals;
- fear of being examined by male medical personnel;

- a sense of futility: that it would be useless to report such acts where a climate of impunity prevails and acts of sexual violence are widespread;

- the tendency of humanitarian personnel to underestimate sexual violence in relation to other violations;

- concerns about ostracism and/or rejection by their communities.

Women, who were forced, through physical coercion or economic necessity, to cook for a warring faction, were at a significantly higher risk of sexual violence at the hands of opposition groups. Compounding this, the local health services were in disarray, with limited means to test and treat sexually transmitted diseases, which were reputedly rife amongst arms bearers. An ICRC study was conducted to assess the security situation of women and the possibilities for appropriate programmes to meet their needs without putting them further at risk. Within this study, an analysis was made of assessments of field visits and evaluations of assistance distributions (including the numbers of victims of sexual violence seeking medical attention) in areas where women were believed to be particularly affected.

The information provided through this process enabled responses to be developed. It was particularly important that sufficient information was collected to be able to intervene with the authorities identified as responsible for those who had perpetrated sexual abuse. Written and oral interventions were made with political and military authorities, calling on them to put an immediate end to violations, with references to applicable law protecting populations affected by conflict. Dissemination and training courses to arms bearers and civilians were held focusing on the protection of women taking no active part in hostilities, and the prohibition of all forms of sexual violence. This initiative was supplemented by a public communications campaign (radio features and poster displays) calling for an end to such violations, the protection of women and a change in the behaviour of those waging war.

Follow-up visits to victims of violations were carried out to ensure that they had not suffered any adverse consequences as a result of interventions on their behalf and to monitor the improvement of the situation.

EXAMPLE C

A woman approached the ICRC requesting food and non-food assistance and asked specifically to be provided with chloroquine, a treatment for malaria. After referral to the health delegate, it became evident that she did not display the symptoms of the illness. Following patient discussion, the woman revealed that she was pregnant as a result of rape. One of the local methods believed to aid the termination of pregnancy was to consume high doses of chloroquine.

The woman was referred to the local hospital for a medical examination and was given the option of speaking about this violation. She was informed of all available national health services and the most suitable local NGO programmes available for the provision of psychological and social assistance. Through being listened to and counselled about the options available to her, she was able to make a considered decision about her condition.

When evaluating the most appropriate programmes for referral purposes, those that were best adapted to the local culture, customs and the specific predicament of women victims of rape were favoured. For example, rape in wartime is often systematic, widespread and recurrent, hence the rigid application of "post-traumatic stress disorder" (a Western paradigm) may be neither appropriate nor adequate. The most successful assistance programmes were widely perceived to be those that fostered the community or the individual's own coping mechanisms.

See also "HEALTH", 1.9.3, EXAMPLE C, pp. 80-81.

1.3 DISPLACEMENT

1.3.1 Overview

Threats of killing, torture and rape engender an atmosphere of terror, which often impels the civilian population to flee their homes. Civilians may leave their land and possessions because they fear an attack, as a result of a campaign of "ethnic cleansing", because their houses and habitual means of subsistence have been destroyed by fighting, or sometimes even due to a strategy of employing "human shields" to protect advancing or retreating armies. During their **flight**, women are especially vulnerable. They are an all-too-easy target for harassment, and those who are identifiable as belonging to a particular ethnic or religious group may be particularly at risk. There are many reported cases of abuse of women while fleeing conflict zones. Not only arms bearers, but also local residents can be responsible for harassing or committing violations against such women.

Forced displacement may also be used to remove inhabitants from an area in order to cut off the logistical support or means of subsistence they give, or are perceived to be giving, to combatants. Women comprise a significant component of internally displaced and refugee populations, and often head households as a result of being separated from male family members. Separation from one's family, community, home and land can have life-threatening implications.

To take one particular example, **women and girls who have been abducted** from their communities and used by armed groups in support roles can find themselves in a situation amounting to displacement at the end of the conflict. Although women and girls who have been abducted under such circumstances are often not regarded as "displaced persons", they face many of the same problems during the demobilization process and their plight should not be overlooked.

Relevant legal framework

Prevention:
International humanitarian law (IHL) expressly prohibits the forcible displacement, of civilian populations within a country or across a border. Exceptionally, the inhabitants of a particular area may be "evacuated" if their security or imperative military reasons so demand.

Displacement:
If displacement has occurred, and they are not taking an active part in hostilities, internally displaced persons (IDPs) are civilians and as such entitled to the full protections afforded to all civilians by **IHL**. Moreover, IHL lays down a number of conditions to be respected in cases of evacuation, including the right of family members not to be separated and the requirement that accommodation be provided. These conditions are applicable *a fortiori* in cases of unlawful displacement. Albeit non-binding, the Guiding Principles on Internal Displacement (1998) are a useful compilation of applicable rules on the treatment of IDPs, based upon IHL and human rights law.

While **human rights law** does not specifically address IDPs, all provisions of a human rights treaty are available, without discrimination, to all persons within the control of a State Party to a particular human rights instrument. This means that the full range of rights must be guaranteed to displaced persons – be they internally displaced and thus nationals of the State in which they find themselves, or refugees – without any adverse distinction based on their displacement.

Refugee law only protects displaced persons who have crossed an international border. The 1951 Refugee Convention lays down a number of rights that must be granted to persons falling within the definition of "refugee". In addition to the fundamental right of *non-refoulement* (not to be sent back to a situation of possible persecution) these include: the right to respect for their juridical status; access to the courts; the right to acquire property; access to employment and to protection of labour legislation and social security; and the right to housing and public education.

Return:
IHL provides that civilians who have been evacuated should be transferred back to their homes as soon as hostilities in the area in question have ceased. This right is applicable *a fortiori* in cases of forcible displacement. Human rights instruments expressly include the right to return to one's State of nationality, as well as the right to liberty of movement and freedom to choose one's own residence. Refugee law emphasizes the **voluntary nature of repatriation**: refugees should never be coercively returned to their State of nationality.

(See also "FREEDOM OF MOVEMENT", 1.4, p. 43.)

1.3.2 Points to consider

Civilians need to be protected from forced displacement. Active measures can be taken by humanitarian agencies to improve the situation of populations affected by armed conflict so that they do not have to flee their homes. If displacement should occur, the lives, **dignity** and **welfare** of women must be fully respected and protected. In the context of IDPs and refugees it is important to appreciate that a further problem they may face is resentment by the host population who may view them as burden on the local economy and infrastructure, especially where resources are limited and the local population is equally in need. Assistance to projects which strengthen ties between IDPs and the local community are important not only in a material sense, but as a way of avoiding tensions and respecting the dignity of such persons.

In addition to sharing the problems experienced by all IDPs and refugees, women also have **special protection needs**. The needs of displaced and refugee women pertaining, *inter alia*, to privacy, respect for physical safety and reproductive health, should be incorporated into all aspects of programming. While fleeing, women may be particularly exposed to violence. For those fleeing to camps, a significant reduction of exposure to violence can result from practical measures (see "SEXUAL VIOLENCE", 1.2.2, p. 28). The economic strain that accompanies the displacement/resettlement process, coupled with the concomitant loss of legal and social status, can cause acute depression and anxiety. This is often compounded by the loss of, and separation from, family members. When operating in periods of large movements of populations, humanitarian organizations should make all possible coordinated efforts to help families avoid separation.

Family separation increases the vulnerability of displaced women to economic hardship or threats to their physical integrity. When assessing the basic needs of displaced persons, unaccompanied women, including elderly women and women alone with children, should be identified and registered for the purpose of following them up individually in terms of protection.

Furthermore, IDPs and refugees moving from urban to rural areas or vice versa may require assistance adapting to a different lifestyle requiring skills and experience they do not possess. Assistance for refugee women, who have crossed international borders, should take account of the fact that they may be unfamiliar with the local law, language and facilities available to them, and of the fact that women often have inferior levels of education.

Internally displaced and refugee women need **privacy** in order to maintain their safety, dignity, personal health and hygiene. Their particular needs must be taken fully into consideration in the design and implementation of programmes and accommodation in camps. Health care provided must include reproductive health care. It should be noted that the health requirements of women are likely to be overlooked by camp authorities and programme planners as, in many cultures, only men are traditionally consulted with respect to such matters. Such fundamental requirements as the fact that pregnant women need facilitated access to health services and food assistance adapted to their needs should never be neglected.

1.3.3 Practical examples

EXAMPLE A

In Central Africa, the civilian population was trapped by fighting following changes in the location of the front lines. Few precautions were adopted by the military to protect civilians from the effects of hostilities. Many civilians found themselves isolated in regions under the control of armed opposition groups. Others chose to flee but were blocked mid-way by government forces, looking to halt the population influx caused by the panic and to protect themselves against possible enemy infiltration.

Civilians in such conflict areas and their immediate periphery either fled to the forests as a measure of security, or tended to congregate in cities to avoid the risk of venturing out each day to cultivate the fields. Owing to security concerns, only men continued to work the fields. As a consequence, the cultivation of cash crops, typically the domain of women, was abandoned for the cultivation of staple crops, traditionally grown by men. The ability of the population to raise revenue through the sale of agricultural produce was thus severely impaired. Such instability increased the price of commodities considerably and compromised fair commercial exchange. Moreover, there were grave problems of discrimination concerning access to humanitarian assistance. It became apparent that the local authorities were selling access to aid and shelter to the highest bidder, prejudicing the poor and artificially inflating the number of beneficiaries.

Vulnerable members of this community received basic food and non-food assistance to contribute to maintaining their level of socio-economic autonomy. Families of displaced persons, many of them headed by women, were assisted through the provision of tools and seeds for commercial crops according to the agricultural season. Humanitarian agencies assisted in organizing the transportation

of persons from areas of immediate danger. Attention had to be paid to ensure that any repatriation or return of refugees or IDPs was into a safe environment in which basic material requirements were assured. Concerns about living and security conditions were raised with the parties to the conflict.

EXAMPLE B

In Central Asia, a programme was initiated to help internally displaced women with dependant children to regain their economic self-sufficiency. They were provided with the infrastructure of a greenhouse, fertilizers and seedlings. An ICRC agronomist came on a regular basis to check the plants and explain the process at every stage: how to prevent disease, how to water the vegetables, etc. At the end of this process, the women expressed satisfaction with the training they received and described it as "motivating".

As an additional dimension of the programme, displaced women had the opportunity to share meals with resident women during training. This community-based programme operated to break down barriers between IDPs and local residents and help IDPs adapt to their host community, increasing their self-confidence and self-respect. The simple fact of bringing displaced women together with local residents to undertake joint activities had an immediate positive impact on both groups. It further contributed to easing the tensions that affect victims of armed conflict in their everyday lives.

1.4 FREEDOM OF MOVEMENT

1.4.1 Overview

The civilian population must be able to move freely, without fear of harassment, attack or injury, in order to maintain **access** to means of **subsistence** and other items required to maintain their **health** (water, food, firewood, medicine, etc) and to conduct day-to-day activities (trade, farming, work, study and religious practices). Mobility is necessary for accessing public services and humanitarian or social organizations, as well as for visiting family members including those deprived of their freedom.

Restricting the mobility of civilians can present a serious threat to their safety. As such, the points contained in "PERSONAL SAFETY", 1.1, should be seen as a complement to this section.

Relevant legal framework

International humanitarian law (IHL) expressly refers to civilians' freedom of movement only in very specific situations. The Fourth Geneva Convention lays down the right of foreign nationals to leave the territory of a party to a conflict or occupied territory and to move away from areas particularly exposed to the perils of war. However, the right to move in order to secure personal safety, a means of subsistence or enjoy the safeguards granted to civilians under IHL is implicit in these other rights. This means that although limitations can be placed on civilians' freedom of movement, this cannot be done in such a manner as to deprive them of their other rights.

Human rights law expressly recognizes the right to freedom of movement. It identifies two principal rights:

- the right to leave any country including the country of one's nationality;
- the right of anyone lawfully within a State to move freely within that State and freely choose a residence therein.

Similarly, the Convention Relating to the Status of Refugees requires States to grant refugees who are lawfully within their borders the right to choose their place of residence and to move freely within their territory.

1.4.2 Points to consider

In what ways is freedom of movement a particularly important or particularly problematic issue for women?

In many communities, women travel long distances to search for food, water, traditional herbs and medicines. It is imperative that they be able to do so free from harassment, attack and injury. This protection becomes especially important in the absence or disintegration of traditional family structures and community networks resulting from the outbreak of conflict.

In conflict situations, women and girls may become responsible for tasks previously undertaken by male relatives, which take them beyond the confines of their traditional environment. Such tasks may include farming, trading or grazing animals. Women may have no choice other than to perform these activities, or may undertake them because they are perceived as less threatening and therefore have greater freedom to pursue such economic activities than their male counterparts. Their ability to do so may be curtailed, however, by the presence of soldiers and by security risks. It is important to note that women's mobility may be further hampered by **cultural constraints**. For example, a woman may not be able to travel in the absence of her husband or a male relative without being perceived as forfeiting her respectability. In wartime, when men are engaged in combat, missing, detained or killed, this requirement may preclude women from seeking out even urgent medical aid.

Checkpoints, **closures** and **curfews** can imperil the lives of those urgently in need of medical treatment. The delays occasioned by crossing checkpoints may, for example, prevent pregnant women from reaching a hospital in time for a safe delivery. Women have died at checkpoints on their way to hospital. The impossibility of predicting how long it will take to reach a hospital on account of the network of checkpoints, combined with the fear of being attacked or harassed, may deter women from visiting medical structures. Under circumstances of severe restrictions on mobility, women may only venture to hospitals when fatally ill.

The ICRC, in its role as neutral intermediary may make representations, when necessary, to parties to an armed conflict and propose a temporary cease-fire (for the collection and evacuation of wounded, dead or sick persons) or a temporary opening of checkpoints (for the passage of ambulances, for example). It may also encourage the authorities to provide specific security measures (such as patrols or escorts) to vulnerable individuals or communities in order to facilitate their ability to

move. In special circumstances, for example to prevent people from being killed, the ICRC may organize the transfer of persons in danger (including medical transfers and evacuations).

Women must be able to move freely and safely, yet often lack legally recognized **identity documents** issued in their own names. The ICRC may make representations to parties to armed conflict to ensure the freedom of movement of such women. Where mobility is restricted by a lack of financial means or for security reasons, the ICRC may, for example, assist in paying the **travel costs** and organize transport for family members to visit relatives deprived of their freedom in connection with armed conflict. The approach adopted will depend on whether it is a problem of security, finances or both. In some contexts, where security is an issue, women have been assisted to organize groups in which to travel in order to take children to school, to fetch water, etc.

Transfers for **family reunification** purposes of relatives who have been separated by conflict often take place across borders and involve negotiations with all parties involved in the conflict. If the persons to be transferred lack identity papers, but have authorization to enter a third country, travel documents may be issued by the ICRC. These documents are not identity papers. They are supplied, under strict conditions and with the agreement of the authorities of the countries of destination/transit, to displaced or stateless persons and to refugees who would otherwise have no possibility of returning to their country of origin or reaching a third country. The ICRC may also be needed to assist in the repatriation of released prisoners, organizing their transportation from the place of release to their home country, to ensure their safe return.

1.4.3 A practical example

In a situation of occupation, women working as nursing staff in a local hospital encountered grave difficulties getting to work. Their movements were restricted by a curfew imposed by soldiers who frequently stopped them at checkpoints. At times, the situation was compounded by gunfire and shelling, which made it unsafe to travel beyond the home. The effect was both to make these women feel like prisoners in their own home and to prevent the local hospital from being adequately staffed.

What dangers do the existence of military checkpoints pose for women?

The women felt they were acutely at risk when travelling alone. Several unaccompanied women had been forced to provide sex or money in order to pass through the checkpoints; others had been coerced to surrender the goods they were carrying. On a daily basis, most women were subjected to demoralizing insults and forms of harassment. For instance, body searches, including for money or valuables, were frequently conducted in humiliating ways. The presence of checkpoints also delayed pregnant women from reaching hospital in time for a safe delivery. Many women lacked personal identity documents, which caused additional difficulties and delays when attempting to pass checkpoints. This was due to the fact that it was generally the men of the community who travelled, and hence were in possession of the requisite documentation. The situation was particularly serious for female heads-of-household, as the economic survival of their family depended on their ability to arrive at work each day.

In response, the ICRC confidentially recorded the testimonies of women who had suffered violence when passing checkpoints and, with their consent, relayed information to the relevant authorities in an attempt to put an end to violations.

While these representations were underway, the ICRC facilitated the arrangement of transportation for women civilians in areas of imminent danger. The individuals involved were further assisted to obtain appropriate documentation to facilitate their freedom of movement, and as a measure of personal safety. This enabled them to get to work and ensure the continued functioning of the local hospital, to the benefit of the entire community.

1.5 FOOD AND ESSENTIAL HOUSEHOLD ITEMS

1.5.1 Overview

In many countries, women are almost exclusively responsible for nutrition in the family, and thus require not only food but also the means to cook it, including fuel (wood, coke, petrol) and basic utensils. Women and girls generally also have a traditional role in the family relating to the collection of water for cooking and other household purposes. The question of food and adequate nutrition is linked with good **hygiene** practices and **health**. As a consequence, food programmes should be accompanied by measures encouraging these good practices and by public health promotion (e.g. to ensure the quality of water and soap, access to health care, information sessions on hygienic waste disposal, etc).

The time and effort expended in order to acquire and prepare food are important elements in the lives of many women, and generally increase in times of armed conflict when both the **availability** of and **access** to nutritional requirements is limited.

Relevant legal framework

While international humanitarian law (IHL) does not contain an express reference to the right to food, many of its provisions aim to ensure that persons not or no longer taking part in hostilities are not denied food or access to it. The relevant rules fall into two categories:

- rules regulating means and methods of warfare; and
- rules concerning humanitarian assistance.

Crucial to the former category is the **principle of distinction**, which prohibits attacks upon civilian objects such as food supplies for the civilian population. IHL also expressly prohibits the use of starvation of the civilian population as a method of warfare: it is prohibited to destroy or remove objects indispensable to the survival of the civilian population such as foodstuffs, agricultural areas for the production of foodstuffs, crops, livestock, drinking water installations/supplies and irrigation works.

IHL also contains provisions aiming to ensure that persons in need receive assistance. While the primary responsibility for meeting the needs of the civilian

population lies with the party to the conflict which has control over it, IHL authorizes relief actions if the population is not adequately provided with supplies, including, of course, food. Such relief actions must be humanitarian and impartial in character and be conducted without any adverse distinction.

The rules on assistance contain a number of provisions setting out specific measures to be taken in aid of women and children. Most of these provisions aim to ensure that pregnant or breastfeeding women receive sufficient nourishment. Additional Protocol I adds that in the provision of relief consignments, priority must be accorded to expectant mothers and maternity cases. Also of fundamental importance to the delivery of humanitarian assistance are the rules protecting humanitarian personnel.

Human rights instruments, such as the International Covenant on Economic, Social and Cultural Rights and the Convention on the Rights of the Child lay down the **right to adequate food** without discrimination on the grounds of, *inter alia,* sex. This right is also implicit in other human rights, most notably the right to life.

Finally, the 1951 Refugee Convention requires States to accord refugees the same treatment as nationals of the host State with regard to public relief, assistance and to any rationing system.

1.5.2 Points to consider

Food security is reached when a person, family or community has access to a sufficient quantity and quality of food supplies, ensured permanently to all, with a view to remaining healthy and active.

Economic security is reached when a person, family or community has the means to cover essential economic needs as defined by the cultural environment.

In order to understand the **survival/adaptation strategies** developed by a household, the following key elements must be studied with a view to determining potential deficits:

- options for access to food;
- options for access to money;

- major/obligatory expenses;
- assets.

In order to understand the different needs of women and men and their respective coping mechanisms, the monitoring process should include a **gender analysis** of:

- the differential impact of the conflict on men and women (e.g. with respect to access to food, resources, legal rights, health care, decision-making structures, sources of income, etc);
- the respective social roles, status and position of men and women (during and after conflict);
- changes in the composition of the family unit;
- mobilization (the mobilization of men indicates greater numbers of women left alone to manage households and thus helps to determine women's needs).

When civilians are no longer able to obtain goods and services by their own means, and when authorities fail to provide them, it is necessary to make representations to parties to armed conflict relating to the food and water supply, access to crops, safe passage of food convoys and security of assistance operations.

Following thorough assessment, **challenges** for the provision of such assistance include:

- securing access to the victims;
- successful delivery of assistance (preventing/minimizing the risk of diversion);
- providing appropriate and culturally acceptable assistance;
- establishing logistical pipelines (ensuring secure and effective transportation of commodities from their source to their destination);
- monitoring and evaluating the programme.

It must be noted that the provision of food alone will not suffice to cover all needs: the more destitute people are the more likely they will be to exchange food aid for other goods and services, often to the detriment of their health and nutrition. Thus any humanitarian food aid programme, which neglects the multi-dimensional aspect of food within and between groups of people, is likely to encounter problems. When assessing the most appropriate form of assistance, it may be helpful to define the importance of one item compared with another for the community (for example, a saucepan compared with soap etc). Assessments of livelihood are essential to determine **existing coping mechanisms** of the population. In some situations, the principle of supplying a package of essential household items, such as pots, plates and utensils, should be considered. **Stoves** can also be given, though it is important to first make an assessment of the energy supply/availability of fuel. In the case of stove distribution, proper installation, energy efficiency, suitability for the habitat and training/information on how to use the stoves should be considered. In other situations, alternative solutions to distributions may be more appropriate, such as agricultural programmes to ensure sustainability of food access. Hence, food delivery should not always be the first response to food shortages. Care should be taken not to undermine the capacity of the population to produce food.

Assistance must be adapted to the needs and situation of women and their dependants and must be culturally acceptable. The **quantity** and **composition** of food must be considered, to ensure it meets the nutritional needs of the particular community, and is easy to cook with the means available (stoves, fuel etc). Monitoring of programmes must include indicators to determine whether female heads-of-household have their food taken away from them or "taxed", or whether they are subjected to violence after distribution to oblige them to give food to soldiers or others. In this sense, women-headed households may be more at risk, hence their food security should be closely monitored.

Are there any cultural obstructions to women and girls benefiting from food assistance?

In some societies, food is distributed and received by men, leaving men in the position of apportioning it amongst members of the household. For example, where "gender preferencing" for food is practised, there must be careful monitoring of the impact of programmes on nutrition to ensure that food is being distributed to the whole household and to those identified as vulnerable. There is a considerable risk that women eat last in the family. Thus regular **monitoring** of assistance programmes **within households** is necessary to ensure that provisions reach women.

Data (by sex and age) on the demographics of the population to be assisted should be collected in order to determine who makes up the population in question, and to ensure that appropriate assistance and services are provided.

Data collected should indicate where:

- households are headed by women who bear the sole responsibility for dependants;
- there are unaccompanied children (some of whom would need to be considered as heads-of-household);
- there are women affected by chronic disease (tuberculosis or HIV/AIDS) and the household has to cover the cost of treatment/drugs;
- there are pregnant or breastfeeding women.

The imposition of **economic sanctions** exerts a profound impact on the availability of and access to food. In countries subjected to sanctions regimes, it is often found that high numbers of women suffer from anaemia and dietary deficiencies. States should be apprised of their humanitarian obligations when imposing such measures. This may entail negotiations with sanctions committees to ensure that humanitarian exceptions to sanctions regimes function satisfactorily. Humanitarian assistance may need to be supplied to the most vulnerable among the civilian population affected by sanctions, with the consent of all concerned parties.

Finally, safe and secure access to food is vital to ensure the health of the civilian population. The risk of women and girls being abused or exploited in return for the provision of food and water is a prospect humanitarian personnel must vigilantly guard against.

Humanitarian actors need to be constantly aware of the potential for women to be **abused** and **exploited** in order to be included as beneficiaries in food and non-food assistance programmes. In the monitoring of certain humanitarian programmes, some organizations discovered that women were being forced to pay for their inclusion on the list of beneficiaries, and those without financial means were forced to pay through sex.

When mechanisms for **planning**, **implementation** and **monitoring** of programmes are put in place, the following points should be considered:

- humanitarian agencies must define the principles and standards of behaviour that they expect of their staff. Staff should be required to show their acceptance of this through, for example, signing a code of conduct. Sexual exploitation should be stipulated as an act of gross misconduct, providing grounds for the termination of employment, and a potential basis for instituting legal proceedings;

- humanitarian actors should be required to attend training workshops on the prevention and response to sexual abuse. It is not only staff but also beneficiaries who should be made aware of the prohibition on any form of "transactional sex", through explanations at distribution points of the correct basis for their inclusion;

- regular surveys of beneficiaries should be conducted to ascertain why they are being included or excluded from programmes;

- women should be involved in all stages of humanitarian programmes including planning, distribution and evaluation;

- any inequalities in access to assistance and participation in decision-making processes by beneficiaries, such as women being forced to pay for their inclusion, should be redressed;

- the continuing adequacy of basic assistance is important so that women are not reduced to submitting to sexual exploitation in order to have regular access to food, shelter, clothing and sanitary items;

- the establishment of reporting channels enables affected populations and humanitarian workers to report cases of exploitation or abuse. For this purpose, more female staff should be included in humanitarian programmes, as the predominance of male staff may not only increase the likelihood of exploitation, but may also restrict avenues for women to report abuses;

- questions about the occurrence of sexual exploitation and abuse should be included in the briefing and debriefing of staff;

- concerns about potential sexual abuse by humanitarian workers, whether or not of the same agency, must be reported through established reporting mechanisms;
- counselling and redress mechanisms should be in place for the victims of such abuses;
- disciplinary regimes and appropriate penalties should be in place and should be enforced.

It should be acknowledged that such abusive acts represent a catastrophic failure of protection.

1.5.3 Practical examples

EXAMPLE A

In a refugee camp setting, discussions were held with camp representatives as to the food and non-food requirements of the population, with a view to providing humanitarian assistance. Food was deemed to be the priority. However, camp representatives had not sent any women along to these discussions. A closer evaluation of the demographics of the camp revealed that there were many female heads-of-household.

What should the next steps be?

A better evaluation of the specific needs of women was required. In order to achieve this, the women themselves had to be consulted. Prior to this, the men of the community were informed why decisions to include women in the planning should be made and why it was important to take their perspectives into account. Discussions with women were then carried out, which indicated that although food was needed, there were other priorities. Women had fled the fighting without being able to collect their cooking pots and lacked utensils. Furthermore, access to potable water and firewood was problematic. The women asked that local beans not be provided as part of the food assistance, as they required much soaking in water before they could be cooked, and a long cooking time which necessitated travelling considerable distances to find sufficient quantities of firewood. This not only consumed time that needed to be spent on other activities, but also posed a threat to the women's safety. Thus it became apparent that food and non-food assistance needs were perceived very differently by men and women.

Further discussions were held and proposals to provide cooking pots, lentils instead of beans and to evaluate water supplies were accepted. This demonstrates that a thorough needs assessment should be made before providing assistance, to ensure that it is appropriate to the needs of the beneficiaries and will in fact be able to be used.

EXAMPLE B

If no malnutrition is evident, and produce is available at the local markets, does this necessarily mean that food is not a problem for the community?

In one central African country, men no longer left their village for fear of being killed by armed groups. Women, however, out of sheer necessity, continued to go to the fields and to the forest. They were rarely killed, but were systematically raped.

In-depth interviews with the population revealed a widespread pattern: women were granted access to the fields on the outskirts of the town, in exchange for sex and labour under the most humiliating conditions. This destructive survival mechanism provided the village with agricultural produce. In many cases, women were abducted and retained by armed opposition groups for periods of time varying in duration from two weeks to several months. During this time they were used as a source of labour and as sexual slaves. They were subsequently permitted to rejoin their families in town to provide them with supplies, but only if they promised to return. If this condition was not respected, the arms bearers had threatened and shown that they would come to the woman's home during the night and kill her entire family. Needless to say, women were not prepared to take this risk.

Although malnutrition was not rife in the region and food was available in the markets, rape was the price paid by the women of the community to feed their families. These women subsequently suffered rejection by their community for fear of reprisals and disease, despite the fact that it was solely due to them that the village had not become isolated and that subsistence commodities remained available.

In response, the ICRC set up an agricultural programme where seeds and tools were distributed enabling women to cultivate land within the security perimeter, minimizing the need for women to venture to the fields beyond the perimeter of the town. Women were assisted by locally hired agronomists and supported by local women's associations.

Other factors which had to be taken into consideration included:

- making interventions to the authorities to try to put an end to such violations;
- procuring medical assistance for the women;
- initiating social programmes to overcome the rejection of these women by their communities.

It was only through paying heed to the plight of women that humanitarian agencies were able to see beyond the immediate availability of food, to the grave problems of access lying beneath.

EXAMPLE C

In an IDP camp in Africa, women and their children had to walk for more than four hours under the burning sun to collect firewood for baking a meal integral to the traditional diet of the displaced population.

The ICRC initiated a pilot project to help these women by training them to build improved ovens, which require only half the amount of firewood. The ovens were developed by the ministries of Energy and Agriculture and by local women's associations. Skilled women, sent by regional authorities and paid by the ICRC, began to train the first group of thirty women over a two-week period. The trainees were then equipped to pass on their newly acquired knowledge to other camp dwellers. The entire project, lasting three months, generated 300 ovens capable of covering the baking needs of the entire camp population. Some of the materials required, such as clay and stones, could be found near the camp. Other less accessible material was supplied by the ICRC.

The improved ovens allowed the women to save valuable time collecting wood and helped to protect the fragile environment in a country already suffering from heavy deforestation. Chimneys channelled the smoke away from the ground, thus reducing respiratory illnesses. The added height of the ovens allowed women to stand instead of kneeling while baking, making the work less fatiguing.

Once the displaced women and their families are able to return to their villages, they will be able to use their new skills to build similar ovens at home.

1.6 WATER

1.6.1 Overview

Access to adequate water (in terms of both quality and quantity) for cooking, drinking and washing purposes is a necessity for preserving the **health** of a population. Furthermore, in rural areas, water is essential for **irrigation** purposes.

Women are often hardest and earliest hit by the environmental degradation and water scarcity occasioned by armed conflict, as they often bear the responsibility of providing water and carrying out tasks for which water is necessary, such as cooking, cleaning and washing. In wartime, they have to walk greater distances and wait for longer periods of time to meet household needs.

Relevant legal framework

The rules protecting objects indispensable to the survival of the civilian population expressly prohibit, *inter alia*, attacks against drinking water installations, supplies and irrigation works. The supply of drinking water to persons deprived of their freedom is expressly addressed in numerous rules of international humanitarian law (IHL).

Drinking water is also expressly mentioned in the Convention on the Elimination of All Forms of Discrimination against Women, which requires States Parties to take appropriate measures to eliminate discrimination against women in rural areas, and in particular to ensure that such women have the right to enjoy adequate living conditions, including in relation to sanitation and water supply.

1.6.2 Points to consider

Women need **access** to a safe source of water for their household purposes. To guarantee their safety, water distribution points should not be located in proximity to dangerous areas, armed forces or military objectives. Rather, they should be close to dwelling areas, especially displaced persons' camps. This is a practical way to minimize the risk of women suffering violence and injury, for example from attacks or landmines.

As it is often women and children who **collect** and **transport** water, the means distributed for collecting water, such as jerrycans and buckets, should not be too large or heavy for women or girls to carry. At the same time, the number of containers provided should allow for the safe storage of sufficient quantities of water to meet household needs. This should be determined by reference to the traditional customs and practices of the population in question.

Women and girls are often responsible for the storage and use of water within the household. As such, they possess knowledge of water management issues. Women and girls should thus be **included** and **consulted** throughout programmes and activities.

It must be remembered that in many cultural contexts women are less able to participate in new initiatives. For example, in a new water point creation initiative, owing to traditional norms and roles, women may be reluctant to speak out and let their views be known. Their involvement in water management has been further impeded by the low self-esteem displayed by women where public functions were concerned. In such cases, efforts should be made to increase not only women's capabilities and skills, but also their own appreciation of their capabilities. The ICRC makes special efforts to request and include the presence of women in project planning and preparation. When the participation of women is minimal or lacking, community leaders should be consulted about why this is the case and how it could be improved.

Furthermore, alternative ways to consult and discover the needs of women should be considered. The collection of **sex-disaggregated data** helps to distinguish differences in needs, interests and priorities in water resource management. Ties should be forged with women at the grassroots level, to ensure that their views and experiences influence the nature of water-related policies and activities. **Training** of motivated women in relation to effective water management and planning is especially important given the prevalence of women-headed households in the developing world.

In order to maintain **good-quality water** for drinking and domestic use, the ICRC often engages in activities including:

- protection of water sources;
- rehabilitation of water-treatment plants;
- transportation of water from water-treatment plants to populations in need;

- repair of distribution networks or gravity-fed water systems;
- construction of wells, boreholes and hand pump installations;
- construction of water storage facilities;
- purification, quality monitoring and distribution of drinking water.

Women benefit from these projects, as they comprise the majority of those collecting household water. By minimizing the number of households using polluted water, the ICRC reduces the rate of disease and thus the amount of time women are obliged to spend caring for sick children/relatives. Furthermore, **hygiene promotion** and educational programmes, to combat major health problems such as diarrhoea and other water-related diseases, should be developed to support women in their educational role within the household regarding water management.

It should be noted that **economic sanctions** exert an impact on the access of the population to a reliable source of water. This is due to the fact that the technical equipment and chemicals required to treat and process the water may become more difficult to procure. Humanitarian assistance regarding the production and pumping/transportation of water may be required to supply the most vulnerable amongst the civilian population affected by sanctions, with the consent of all parties concerned.

1.6.3 Practical examples

EXAMPLE A

Women and girls in a country in West Africa walked long distances, through conflict-stricken areas, to collect water but seldom had enough for their domestic needs. To improve both the health of the family and the protection of women and girls, a water source closer to the village was proposed. However, as custom dictated, discussions were held with the men of the village to determine the construction and location of this water source.

After its construction was complete, it became apparent that the means of accessing the water had to be adapted for the women who were actually using it. For example, the short-handled hand pump had to be replaced with a long-handled pump to enable women and girls of lesser physical strength to use the

water source. In addition, the involvement of women proved invaluable, as it was ultimately the women using the water facility who were most conscientious about maintaining it and keeping it in a good state of repair.

Involving women from the early stages of consultations ensures the perspectives of the entire community are taken into consideration.

EXAMPLE B

In a country in the Horn of Africa, the ICRC "Village Level Operating and Maintenance" Team (VLOM), consisting of eight people, always involves at least one or two women in the preliminary discussions about water programmes and the maintenance of hand pumps and light equipment. The participation of women helps to ensure that the design of hand pumps and water points are appropriate to the needs of the users, predominantly women.

It is vital that staff working on such projects remember to request the involvement of women. Most often, the problem is not resistance on the part of the community to women becoming involved, nor reluctance on the part of women themselves. Rather, women often have the perception that humanitarian organizations are not interested in their perspectives or think that they have nothing to contribute, unless the contrary is made clear to them.

1.7 SOURCES OF LIVELIHOOD

1.7.1 Overview

War often deprives affected individuals of their traditional source of income. Women may be forced to adopt new and **previously unforeseen roles**, or to find "war-relevant uses" for their existing skills. It is not only women who are often unprepared to act as breadwinner or head-of-household: their community is often equally unprepared for this shift in conventional roles. As a result, women may face social censure for transgressing behavioural norms in their struggle to secure a source of livelihood in wartime.

Women who resort to, or are forced into, baking bread or washing clothes for armed groups run the risk of being deemed "collaborators". The use of women as a logistical support network, to feed, house and clothe combatants, increases their risk of being targeted as a "strategic enemy".

Conflict often coincides with, or is the indirect cause of, concurrent crises such as famine, epidemics and economic upheaval, which stretch the coping mechanisms of the community to the limit. Furthermore, armed conflict alters the composition of the family and of society, often leaving widows and wives of missing persons alone to support themselves and their dependants.

Relevant legal framework

The prohibitions on starvation and the destruction of objects indispensable to the survival of the civilian population, effectively guarantee civilians the possibility of making a livelihood from farming. The use of certain weapons, such as anti-personnel mines, which render agricultural activities impossible, is prohibited. Also relevant is the prohibition, in international armed conflicts, of means and methods of warfare that cause widespread, long-term and extensive damage to the environment, as they would render farming impossible.

While international humanitarian law (IHL) imposes **limitations on the means and methods of warfare** to enable civilians to continue agricultural activities during conflict, human rights law adds an important dimension: it recognizes the **right to property** and prohibits discrimination between men and women in the enjoyment of property rights.

With regard to sources of livelihood other than agriculture, if foreign nationals in the territory of a party to an international armed conflict have lost their gainful employment, they must be given the opportunity to find an alternative source of income. Subject to security conditions, such opportunity must be equal to that enjoyed by nationals of the State in which they find themselves. In situations of occupation, the Fourth Geneva Convention prohibits the Occupying Power from taking measures aimed at creating unemployment or at restricting the opportunities offered to workers, to induce them to work for the Occupying Power.

The **right to work** is recognized in a number of universal and regional human rights instruments. The significance of this provision resides in the fact that it must be granted without discrimination on the basis of, *inter alia*, sex. The Convention on the Elimination of All Forms of Discrimination Against Women requires parties to take measures to eliminate discrimination against women in the field of employment and guarantee to men and women equal opportunities, including the application of identical selection criteria. The Refugee Convention requires parties to grant refugees within their territory the most favourable treatment accorded to foreign nationals in the same circumstances, regarding the right to engage in remunerative employment.

1.7.2 Points to consider

The following variables should be taken into account in analysing the degree of **economic vulnerability** of a population affected by armed conflict:

- labour (income);
- human capital (access to education, health);
- housing;
- intra-household relations; and
- social capital (solidarity networks and reciprocity relationships between households and with State and private institutions).

Assistance activities should aim to protect the vital **means of production** of persons affected by conflict, so that they can, as far as possible, retain their ability to be productive and remain economically **self-sufficient** at the household level. The premise underpinning such activities is that one of the prerequisites for successfully restoring individual dignity is the ability to be as self-sufficient as possible.

In agricultural communities, access to land and farming implements provides vital social and economic security and represents the basic means of subsistence for many people. Farming and raising livestock depends on the availability of water as well as agricultural implements and veterinary care. Where **access to land** is jeopardized, this should be brought to the attention of the relevant authorities. In an urban context, **access to work** through the labour market or through economic enterprise is essential in order to provide the means for economic survival. Women must also be able to engage in gainful employment, but are often adversely affected by the scarcity of employment opportunities and discriminatory practices. One particularly significant example is discrimination against women with respect to land tenure (the legal right to own property). Another manifestation of this problem is when land is redistributed by traditional authorities after an armed conflict solely to male heads-of-household, leaving war widows or women whose husbands are missing in relation to armed conflict, without access to land. Certain humanitarian organizations have engaged in advocacy to improve this situation.

In both urban and rural contexts, women who have endured or are continuing to endure the effects of armed conflict must be supported to gain or restore their economic security and dignity. Responses must be adapted to their specific situation, encompassing factors such as: child-care responsibilities, women's level of skill and training, and cultural dictates. For example, **assistance projects** for women based on agriculture and animal husbandry are often more successful where small animals (poultry, goats) are involved, as women are often traditionally responsible for these animals, which do not need to be taken long distances to graze (which is time-consuming and can be dangerous). Care must be taken to ensure that economic endeavours are culturally acceptable so as not to attract reprisals against the women involved. In certain societies, women have been subjected to physical assault after working with NGOs. Hence careful attention is required to inform communities, especially men, of the reasons why women are being included.

Widowhood often changes the social and economic roles of women in the household and community, as well as the structure of the family. The impact of widowhood differs between cultures and religions. In some communities, a widow is responsible for supporting her late husband's dependants, in others she is taken in

by his family. In some countries widows are **stigmatized** as purveyors of ill-fortune and unwanted burdens on poor families. If the link between the family and the widow has been severed by the death of the man, a widow may lose custody of her children. She may also be stripped of her home and possessions by the family of her deceased husband. The perception that widows are predominantly elderly women is not always accurate. In developing countries, widowhood also affects younger women, many of whom are still raising children.

What can be done to protect and assist widows?

Projects for widows include: civic education, literacy programmes, vocational training and support for small business ventures, taking account of the fact that widows have not only needs, but also abilities. Widows have been assisted, in conjunction with other women, to become self-supporting and entrepreneurial, running small businesses to support their dependants.

Income-generating programmes for women should serve to decrease their vulnerability and exposure to both security risks such as trafficking or sexual exploitation in return for assistance, and health risks such as malnutrition. Where men are the dominant decision-makers and public figures in a community, it is advisable to specifically tailor programmes to women heads-of-household, to ensure their needs are not subordinated or overlooked. Vocational education and training of women can help them generate not only an income but also a sense of accomplishment, autonomy and self-esteem. Such programmes must be compatible with the situation and needs of the beneficiaries. For example, "food-for-work" programmes might not always be suitable for women, given the other demands on their time relating to domestic and child-care obligations.

As an additional consideration, **coordination** between humanitarian agencies is essential. It is sometimes the case that organizations initiate overlapping programmes resulting in every women's group producing, for example, bread or fruit juices. This generates a situation of excessive competition where supply outweighs demand. As a consequence, some income-generating projects sponsored by humanitarian agencies have only been marginally successful.

1.7.3 Practical examples

EXAMPLE A

In West Africa, a programme was initiated by the ICRC, to help women affected by armed conflict to restore their traditional economic activity and enhance their income-generating capacity through associative vegetable production. Additionally, the programme aimed to improve the diet and security of the families. Women's associations interested in participating in these economic programmes were identified.

These programmes offered women affected by the conflict several benefits. Women received vegetable seeds and tools to restore and enhance their traditional economic activity. Training in marketing skills was also essential, enabling them to sell their produce in the best possible way.

In addition to the tangible economic benefits, what could be the indirect benefit of such a programme?

Representatives of each of the women's associations were trained in seed multiplication techniques through week-long interactive workshops, which served to strengthen solidarity among those affected by armed conflict. Women were supported by others who had been through similar experiences. Without this dimension, the programme would have lacked responsiveness to the reality of these women's lives. The programme fostered a sense of community amongst people who would have otherwise been isolated from society. Furthermore, the programme served to strengthen and support grassroots women's associations and civil society. Working together, the women felt more confident about interacting in the marketplace and obtaining a fair price for their produce. Women participants expressed great satisfaction that, thanks to the programme, they could afford to keep their children in school. In this way, the project enabled a renewed sense of solidarity and hope for the future to take root.

EXAMPLE B

In a post-conflict setting, the most vulnerable amongst the civilian population were found to be widows and female heads-of-household, often responsible for many children. These women found themselves in an extremely precarious position, with neither land nor the tools to cultivate it. Coping mechanisms were

limited: begging, picking wild fruit, and, in some cases, resorting to prostitution. Lacking financial means and political support, and needing to devote their time primarily to securing means of survival, these women were generally unable to claim financial aid from the appropriate authorities. Many NGOs and development programmes did not take these women into account, as investments required the payment of a warranty, which these women could not afford, in order to secure the grant of a loan.

The situation of wives and girls related to men deprived of their freedom was exacerbated by the need to provide them with food and financial support. Women lost precious time for work and production due to travelling long distances to the prisons, and thus became trapped in a spiral of poverty. They sold their shelters, their animals and their belongings in order to be able to respond to the needs of those detained. It was frequently the case that one woman would be responsible for supporting several members of her family in detention.

In a social setting of exchange and reciprocity, women without means found themselves bereft of social ties. As a consequence, they suffered from discrimination at every level, including access to basic needs, such as water and housing, ultimately becoming incapable of attaining even a basic level of self-sufficiency.

The ICRC granted support to women's associations permitting them to participate in agro-pastoral programmes and to thereby restore their traditional economic activities. Their situation improved and they once again became eligible to receive credit from other institutional actors. In this way, they moved beyond economic distress to a situation of economic rehabilitation. Supplies taken to relatives deprived of their freedom no longer needed to be drawn from the essential sustenance needs of these women and their children. The loans constituted the first step in integrating women into the post-war economy, thereby enhancing their participation in civil society. Women also participated and were consulted in the planning, implementation and evaluation stages of the programme.

EXAMPLE C

Following conflict in Eastern Europe, many women were left widowed or without information on the fate of their missing husbands. The war led to high unemployment affecting every household, which in turn eroded the traditional support given to widows by the community. Widows and their dependants were left to support themselves.

A local humanitarian organization initiated "work-at-home projects" for these women, involving the production of bags, crocheting of blankets, dressmaking, wool-spinning and knitting of jumpers, giving the women wheat flour as payment. The jute bags produced were used by the organization for food distribution and the knitted clothes and quilts were used for winter distributions.

The project proved successful and sustainable for three main reasons. Firstly, the "work-at-home" approach was a culturally acceptable way of allowing women to generate an income while meeting their other household obligations such as childcare. This allowed for the consistent and full participation of women. Secondly, skills training was incorporated into the project, enabling women to continue production independently of external support. Thirdly, a "captive market" was available as humanitarian organizations needed such items, so the women did not encounter difficulties with respect to the sale of their produce. This demonstrates that where such a market does not exist, an important element of income-generating projects must be ensuring that there is sufficient local demand for the produce, that women have access to the markets and possess the skills to engage in trade.

1.8 SHELTER

1.8.1 Overview

Shelter encompasses all aspects of **accommodation** (housing and temporary structures such as tents) as well as **blankets**, **heating** and **clothing**. Shelter is a prerequisite for the survival and health of populations affected by armed conflict, yet it is frequently damaged, destroyed or abandoned owing to displacement. Clothing is necessary to preserve health and dignity and to ensure mobility beyond the home, yet may become scarce or too expensive to purchase in times of war.

Relevant legal framework

International humanitarian law (IHL) recognizes that shelter provides fundamental protection for civilians in situations of armed conflict. The rules of IHL aim to ensure that **civilian dwellings** are **not attacked**, that civilians are **not arbitrarily displaced** and that those who have been displaced are given **adequate accommodation** during their displacement. IHL also envisages the possibility of parties to an international armed conflict establishing protected zones in which certain categories of civilians can find shelter. Collective punishment, which often takes the form of the destruction of dwellings, is also expressly prohibited. IHL contains frequent reference to clothing in the context of relief actions for the civilian population.

In addition to the right to property, human rights law also lays down a prohibition against **unlawful interference** with a person's privacy, family, home or correspondence. The right to adequate housing is also included in the Convention on the Elimination of All Forms of Discrimination Against Women, which obliges States Parties to take all appropriate measures to eliminate discrimination against women in rural areas with respect to the enjoyment of adequate living conditions in relation, *inter alia*, to housing. Regarding **clothing**, the International Covenant on Economic Social and Cultural Rights, for example, provides that all individuals and their families have the right to an adequate standard of living, including adequate clothing and housing.

As regards housing, the 1951 Refugee Convention requires host States to accord to refugees lawfully within their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to foreign nationals generally in the same circumstances.

1.8.2 Points to consider

Construction projects for erecting shelters, both temporary and permanent, may demand physical strength often exceeding the capacity of women and technical skills not taught to women. Furthermore, owing to cultural constraints, women may be excluded from construction projects, which are not typically deemed "the work of women". They may also be excluded where such labour is encompassed in food-for-work programmes typically given to men. Such projects may also exclude women for reasons as simple as lacking appropriate clothing to climb ladders. In addition, such projects may be inappropriate for women, as women already bear the burdens of domestic work and childcare. These constraints need to be taken into account in the provision of shelter and in the implementation of construction projects.

The specific needs of women must be taken into consideration in the provision of shelter and materials to populations *in situ* (who are often the least accessible), IDP/refugee camps and for those returning after displacement. With respect to return, assistance in rehabilitating homes in the form of materials, technical assistance, loans and/or legal and practical advice may be required.

Temporary **shelter** must:

- offer security, away from areas of fighting;
- provide protection from the elements (snow, wind, sun, rain);
- provide privacy: a woman should not be compelled to share accommodation with persons who are not members of her family;
- satisfy cultural dictates in relation to the separation of sleeping quarters between family members. Consideration should be given to the safety and well-being of children to ensure they are not forced to leave their accommodation for long periods to give their parents privacy;
- provide safe and proximate access to water points, hygiene facilities, washing and cooking facilities and waste disposal;
- be easy to clean (for example, in muddy/cold countries, a wooden floor or small entrance/awning may be appropriate);

- be sustainable, as many people may be forced to reside in "temporary" structures for a considerable period of time.

Shelter and clothing play a vital role in preserving physical and mental health by limiting exposure to the elements and by conferring a sense of dignity and well-being.

The **clothing needs** of women should be assessed bearing in mind the following aspects:

- climatic conditions;
- traditional, cultural and religious dictates;
- adequacy of the clothing to maintain the mobility of women beyond the home, including to attend relief distributions;
- whether the distribution of second-hand clothing is likely to offend the dignity of the recipients and be unsuitable for the conditions;
- whether the distribution of culturally appropriate sanitary material may necessitate the provision of suitable clothing in order to be able to use it.

1.8.3 Practical examples

EXAMPLE A

The impact of a decade-long civil war in West Africa led to a high level of devastation caused by the intentional burning, destruction and looting of civilian properties and infrastructure. The predicament of female-headed households was particularly acute. The culture and community in the region defined which type of work men and women performed, and women were rarely directly involved in shelter construction, especially not the aspects of carpentry and masonry. Women did traditionally contribute to construction work by preparing local materials such as mud or mud bricks, thatch, bush sticks and in assisting men. However, female-headed families were dependant on men to help them to construct their homes. This complementarity of traditional roles and duties was undermined, in many cases, during the conflict when many men and women were separated.

In addition, the shortage of building materials, skilled labour and construction tools in the villages pushed female-headed households further down the priority list of communal activities. In rural areas, where harsh economic conditions prevailed, female-headed households could not afford to purchase the expensive roofing materials and/or pay for construction. The negligible income they were earning from the sale of cash crops was not enough to meet their family's immediate sustenance needs, let alone enable them to improve their housing conditions.

The ICRC provided the most vulnerable amongst the female-headed households with improved roofing materials such as corrugated galvanized iron sheets, assorted wire and roofing nails. Discussions with the women identified that they did not have the skills, the physical strength or the means to pay someone to implement construction or rehabilitation housing projects, which were the traditional domain of men. Plans were drawn up to provide construction materials for these households under the assistance of skilled personnel.

In some cases, it was observed that there were considerable delays in the construction of houses for women. Discussions with the community revealed that the problem stemmed from the condition imposed upon participants in the construction projects, that they find their own windows and doors. Single women, without connections or resources, found it impossible to fulfil this requirement. The ICRC provided these women with the requisite windows and doors, enabling the project to be successfully completed.

EXAMPLE B

Temporary housing material was provided for displaced persons in an IDP camp in Africa. Several weeks later, this material had still not been used though shelter was urgently required.

Why?

The majority of camp residents were women, children and the elderly who lacked the skills and strength to use the material provided to construct temporary housing. On discovering this, men were brought in from the nearby town and employed in a food-for-work programme to assist with heavy construction tasks. In order to be included, women were instructed and assisted in house-building techniques and the use of material provided (such as mixing cement) in order to build their homes.

This demonstrates that factors to consider include:

- the willingness of women to learn new skills;
- the availability of men to undertake the work;
- whether the presence of workmen is accepted by the women concerned;
- positive incentives (such as the provision of food assistance) to encourage men to assist;
- how the community is organized and the solidarity networks that exist in the particular context (rather than simply assuming that men help women, or that the community supports the elderly, etc). In certain contexts, men who have engaged in this sort of construction work mistakenly retained a sense of ownership over the property, or have helped women to construct homes expecting sex in exchange. It is hence very important that humanitarian workers understand community attitudes toward this sort of project, and that the community clearly understands how the project should be run.

1.9 HEALTH

1.9.1 Overview

What is meant by "health"?

Health encompasses complete **physical**, **mental** and **social** well-being, not merely the absence of infirmity. All efforts must be made to preserve the proper functioning of health services during armed conflict situations. The pivotal role played by women in maintaining their own health and welfare, as well as that of their family and community, must be supported and utilized to its full potential. At the same time, long-lasting conflicts limit the ability of women to transmit traditional knowledge relating to childcare and basic health and hygiene, owing to the destruction of the family and community. The same applies with respect to their ability to impart basic knowledge about sexuality and reproductive health. Primary health care for women and girls is a prerequisite to improving the health of the entire family and community. The additional burdens placed upon women during conflict, such as the economic strain of becoming the head of their household coupled with the emotional strain of loss of loved ones, may exert an adverse impact on their health.

Relevant legal framework

International humanitarian law (IHL) contains numerous provisions aimed at preserving the health of civilians in situations of armed conflict, these include rules to:

- protect civilians from becoming victims of violence or suffering from the effects of hostilities;
- guarantee them adequate food, shelter and clothing in order to maintain good health;
- provide for persons in need of medical assistance;
- protect medical establishments, personnel and supplies;
- permit relief actions;
- prohibit medical procedures not justified by the health of the patient.

Many of these provisions specifically identify women as being entitled to special or preferential treatment, according to their specific needs (pregnant, nursing mothers, etc).

The **right of access to health services** is enshrined in a number of human rights instruments. The International Covenant on Economic, Social and Cultural Rights requires States to take steps towards the progressive realization of the right of all people to the enjoyment of the highest attainable standard of physical and mental health. This has particular application with respect to the reduction of the stillbirth rate and of infant mortality; the prevention, treatment and control of diseases; and the creation of conditions that can assure to all medical services and attention in the event of illness. These rights are not immediately enforceable, but insofar as they have been developed, they must be granted to everyone without any discrimination on the basis of, *inter alia*, sex. Furthermore, the standards of health and health care that must be attained are relative and not absolute.

1.9.2 Points to consider

The full-range of medical services must be available and readily accessible to women affected by armed conflict. As people affected by conflict become poorer, medical services, if not provided freely by humanitarian organizations, come to be considered a "luxury". This renders it even more difficult for women to have a choice regarding their **reproductive health** (for example, accessing gynaecological and obstetric assistance). The outbreak of conflict usually results in the destruction of ordinary health care systems. Hence medical activities, focused on preventative and curative care, need to be provided for people in conflict-affected areas. Indicators of the state of the health of the population should be collected from national authorities, international or national organizations and through field assessments, with particular focus on the maternal mortality rate, birth rate and infant mortality amongst the general population, populations in conflict-affected areas and displaced populations. **Assessments** must be made of surgical needs for war-wounded, general emergency surgical cases, obstetrics, gynaecology, paediatrics, psychiatry/trauma counselling and for physical rehabilitation programmes. National health structures should be supported and sustained as much as possible.

In conducting such assessments, an analysis should be made of whether women have full **access** and possibilities to benefit from medical care, with specific reference to possible limitations such as physical access, transportation, travelling distance, security, childcare needs, financial constraints and socio-cultural constraints. Analysing statistics disaggregated by sex and age will facilitate this process.

In situations of armed conflict, the war-wounded are often given priority regarding treatment and are the casualties of war most often provided for by parties to an armed conflict. Yet the emergency medical and surgical needs of war-affected civilian populations are just as much a priority. When carrying out an assessment of surgical needs, **obstetrics** and **gynaecology** should be considered – and considered as a necessity. Health services should also reflect an awareness of cultural practices and religious norms, since very intimate and culturally sensitive interviews with women are often required. This applies *a fortiori* in the case of sexual violence. Health personnel should also be familiar with national laws and health policies. Preventive action and assistance programmes for **HIV/AIDS** patients must consider the specific constraints making it difficult for women to gain access to programmes of emergency medical aid and longer-term health care.

Women facing **obstetrical-related emergencies** and health problems must receive the immediate and appropriate surgical and health care that their condition requires. Women should be able to have access to trained health staff, including gynaecologists or midwives, when giving birth especially in isolated areas through, for example, referrals by traditional birth attendants (TBAs) to health centres and hospitals in order to reduce the maternal mortality rate. Women should be able to choose their preference in terms of birthplace and method of delivery. In emergency situations, humanitarian programmes tend to focus on life-saving operations; hence reproductive care is generally not deemed a priority as part of the minimum services provided. Basic **reproductive health services** should be provided, which include information on the prevention and management of the consequences of sexual violence, the reduction of HIV transmission and the prevention of excessive neonatal and maternal morbidity and mortality. Health education and community participation in the planning and allocation of health resources, taking particular account of the central role of women within a given cultural context, should feature prominently in primary health-care programmes for the civilian population.

Women victims of **sexual violence** endure a wide range of health consequences including: obstructed labour; sterility; incontinence; vaginal fistulas and sexually transmitted infections (STIs). In areas where the ICRC is running medical programmes, STI treatment comprises part of the assistance.

In addition to dissemination of the relevant norms of international humanitarian law and steps to intervene with the authorities where appropriate, activities undertaken by the ICRC to **assist women victims of violence** include:

- medical assistance;

- identifying, supporting and providing services for counselling and psychological support;
- descriptive epidemiology (documenting who is affected, when and where) to provide a basis for analysis, which in turn provides a basis for developing prevention and protection strategies;
- training of health staff on how to listen to women, to preserve the confidentiality of data obtained and to appropriately manage the consequences of sexual violence;
- sensitization of traditional birth attendants, NGOs and women's associations to the issue of sexual violence as a means of better recognizing victims and in order to create a chain of referral for the provision of appropriate assistance;
- identification of community groups and networks to support victims of violence.

The specific issue of **female genital mutilation** (FGM) while practised in many cultures is illegal in many others and viewed as harmful by numerous international bodies. Health practitioners should be aware of the practice and the health repercussions it entails.

1.9.3 Practical examples

EXAMPLE A

Research into the indicators of the health of a war-affected population in a Latin American country revealed that the maternal mortality amongst IDPs was significantly higher than the national average. Discussions with women amongst the population affected highlighted that these displaced women from indigenous communities would not attend national medical structures, believing that their pregnancy would be terminated and/or that they would be sterilized as a means of reducing their ethnic/racial group. Furthermore, many of the traditional birth attendants and family members who would normally have assisted them with pregnancy complications and with the birth had either not fled with them, or had become separated from them in displacement. Thus women were trying to cope alone with maternity and childbirth.

What would be an appropriate response with lasting benefits for this community?

In response, projects and programmes related to primary health care were carried out in conjunction with health education campaigns to encourage women to visit

medical structures when necessary, and to increase awareness amongst the population and local health care workers of reproductive health issues. Vaccinations for children under five years and women of childbearing age (for tetanus) were carried out in the camps for displaced persons. A system of antenatal services was initiated in conjunction with a local NGO. Basic medical supplies were provided to the NGO, which ensured that displaced women were not required to pay the fee for antenatal consultation and medicines at the clinic. In response to the women's concerns, an analysis of the medical structures in question was undertaken, to ensure that no negative or harmful procedures were being performed.

EXAMPLE B

A physical rehabilitation programme in two different contexts in Asia, was receiving few women for prosthetic fittings but many men; yet statistics had shown women were also victims of landmines, diseases and injuries necessitating amputations.

What could have been causing this disparity?

National employees involved in the project were asked to discuss this with their patients. These discussions revealed that women could not come to the programme unless accompanied by a male relative.

The additional accommodation and travel costs that this involved made the project prohibitively expensive. Discussions further highlighted that many female personnel involved in the programme had left in recent months and had been replaced by men. Many women (and their family members) were not comfortable with a man treating them.

What approaches could be adopted to make the programme accessible to women?

The ICRC decided to:

- recruit and train more women to be involved with patients and to ensure the balance of male and female workers in the team was continually monitored in the future;
- organize for groups of women from the same community (and/or with a respected elder) to travel and be treated together if they were without male relatives, so they were not perceived as being in a compromising position by travelling away from home alone;

- assist families with travel expenses and pay accommodation costs where no other solution was possible. In some cases, the ICRC paid for the travel expenses and accommodation for both female patients and their accompanying male relatives to be treated in the physical rehabilitation centre with prostheses and physiotherapy;

- ensure women were not treated in rehabilitation centres where they were forced to mix with men in a way that would prevent husbands or other family members from allowing them to attend;

- accommodate women with children by providing basic child-care facilities;

- use mobile clinics, in certain cases, to accommodate the needs of women in remote rural areas.

Both men and women involved in the programme saw these solutions as acceptable.

EXAMPLE C

How can access to medical structures for victims of sexual violence be improved?

In the Great Lakes Region, the ICRC initiated a programme to closely involve local organizations in supporting women who had suffered acts of sexual violence. With the help of local women's associations, the ICRC identified sixty women practising or willing to practice as traditional birth attendants (TBAs), known to their local communities. In light of their place in the community and their proximity to the victims, TBAs can play an important role in assisting victims of sexual violence. Indeed, owing to their status in the community, they are able to play a role at many different levels, including prevention through their contribution to sensitizing the community to the issue of violence against women, identifying victims of sexual violence, referring victims to appropriate medical structures and giving moral support to women victims of violence. The aspect of directing victims towards long-term treatment and rehabilitation acquired particular importance given the numerous ongoing problems that surface in the wake of sexual violence. The creation of this community support network, encouraging women to use hospital facilities, served to counter the tendency of victims of sexual violence to retreat into isolation.

TBAs and the staff of local health-care centres can, with appropriate training, also provide psychological support. In conjunction with the ministry of Health, a

training programme for TBAs was initiated to train them to identify victims of sexual violence, to provide a suitable medical response and, if necessary, to refer the women to appropriate structures for further care and support. Technical advice on what to include in reproductive health kits, as well as reference materials and financial assistance was provided to supplement the course. Among the objectives of this programme was encouraging women to seek medical assistance and to establish a method of referring women with high-risk pregnancies to give birth in a safe and adequately equipped location (hospital/health clinic). To achieve this, TBAs were trained to identify the symptoms from which women victims of sexual violence may suffer, to be sensitized to the issue of sexual violence and how to appropriately speak to victims, and, in cases of particular gravity or urgency, to refer women to appropriate health structures for assistance. Staff in the health centres were in turn trained to be able to receive patients/victims, and to act as an integral part of this chain of referral by sending patients to hospital if their case was particularly serious, or sending them to the appropriate facilities if psychological care was required.

This programme provided a way to tap into and strengthen existing means of health care, where no other method existed for reaching local women in need. The ICRC adopted a supplementary, supportive role with respect to the training course and facilitated the provision of professional psychological assistance to the victims. This psychological support was equally available to all conflict-affected women, including those who had not suffered sexual violence.

1.10 HYGIENE AND SANITATION

1.10.1 Overview

Women are often responsible for providing for and educating their family members in hygiene-related matters. As traditional structures, systems and norms tend to break down in times of armed conflict, attention must be paid to ensuring access to water and soap for bathing, for washing clothes and living quarters, as well as access to culturally appropriate hygiene products and facilities. Women affected by armed conflict often assume additional burdens, which may place constraints on their time and cause them to have a reduced presence within the family. This can have a deep and adverse effect on hygiene education.

Relevant legal framework

The rules of international humanitarian law (IHL) concerning food and water (see "FOOD AND ESSENTIAL HOUSEHOLD ITEMS", 1.5, p. 47, and "WATER", 1.6, p. 57) also apply to water used for sanitation purposes. Sanitary facilities for female civilian internees and prisoners of war must be **separate** from those provided for men and boys.

The Convention on the Elimination of All Forms of Discrimination Against Women requires States Parties to take appropriate measures to ensure that women have the right to enjoy adequate living conditions, including in relation to sanitation and water supply. Similarly, the Convention on the Rights of the Child requires States Parties to take appropriate measures to combat disease and malnutrition through the provision of adequate food and clean drinking water.

1.10.2 Points to consider

Assessments of conflict-affected areas must include an understanding of **access to water sources** and **sanitary facilities**, with a particular focus on their proximity to areas of military activity or the barracks of arms bearers. In IDP/refugee camps, security teams, comprising both men and women, should regularly patrol sanitary facilities to ensure that conditions for women are safe. It must be ensured that women have access to appropriate hygiene materials and sanitation facilities, and are able to receive instruction on how to adapt, if necessary, their existing hygiene and sanitary practices to the new circumstances of living in a camp or conflict zone.

Environmental changes, such as moving from an urban to a rural community or from a private residence to collective settlements, can render traditional hygiene practices unsuitable or even a health hazard. Hygiene promotion and education programmes should serve to address this issue, as well as to support women in their educative role within the household.

Women are frequently the primary **collectors** and **users** of household water and are actively concerned with its proper running and maintenance. In order to develop systems that adequately meet women's needs, women must be included in decisions about the location of water and sanitation facilities and about the technical aspects of their maintenance. If women are excluded, then inappropriate systems may be installed, which they cannot fully benefit from or use. One example is the distribution of containers too large or heavy for women to lift to transport water. Furthermore, experience with women in maintenance roles reveals that their effectiveness in regular and preventive maintenance is generally better than men's, which reduces the need for and cost of repairs.

Distributions of assistance must include an adequate supply of soap, washing powder, culturally acceptable sanitary products and clothing, as these are vital to health and dignity. Women must be asked about their needs, as a lack of such material may cause them to limit their mobility, which has repercussions in terms of meeting household obligations.

1.10.3 Practical examples

EXAMPLE A

ICRC field staff visited an IDP camp in Africa whose population predominantly consisted of women and children. Although the women in the camp were hesitant to speak openly about their problems, the younger girls revealed that they did not go to the showers alone.

Through discussions with the women and girls it became clear to the staff that safety in the shower/toilet facilities was a problem. Shortly after the visit, the women at the site were relocated to another camp. In the new camp, toilets and showering facilities were not placed next to an open field, which made access from outside of the camp more difficult. The facilities were placed in a more secure location with well-lit areas and equipped with locks on the inside of the doors. Discussions were also held regarding initiating camp patrols, comprised of men and women, who could keep watch over the area of the sanitary facilities to ensure that users were safe.

EXAMPLE B

In a country in Asia, awareness-raising programmes for mothers on questions of hygiene, water purification and epidemics were conducted. Teams from humanitarian organizations visited households on a daily basis to promote hygiene awareness. By imparting basic but effective techniques, the project contributed to ensuring that women were able to remain key knowledge providers for their families and local community.

After an in-depth assessment of traditional behaviour, these techniques were considered to include:

- boiling water from the river before drinking;
- washing hands before food preparation, before eating and after using the latrine/toilet;
- correctly using and cleaning latrine/toilet facilities (the precise instructions in this regard will depend on the type of latrine provided in the context);
- safe waste disposal methods to avoid epidemics.

Owing to cultural norms, it was important to ensure that it was women staff members who spoke to local women about hygiene and health matters. This further provided staff with an opportunity to speak with women in private and to provide specific information on issues such as hygienic child care, diarrhoea and rehydration etc, and to visit their homes.

Hygiene promotion is always conducted in relation with the construction of latrines/toilets. For example, the ICRC may construct a model latrine in a village and then provide the community with materials from which they can construct similar latrines. The type of latrine and the material provided will depend on the culture and context. Women are most frequently responsible for cleaning these facilities. Latrines/toilets that are easy to clean and that have a water source nearby are preferable.

1.11 PRESERVATION OF FAMILY LINKS

1.11.1 Overview

The term "family" must be understood in its broad sense, including family members and close friends and taking into account the cultural and social environment. Though the composition of the "family unit" varies from culture to culture, preservation of family unity is vital to the well-being of all persons. It is especially important for children to remain with their parents for reasons of protection, care, affection, education and cultural awareness.

The demographic composition of a society shifts dramatically in times of armed conflict, due to persons, predominantly men, taking up arms, fleeing for fear of conscription, being arrested, killed or remaining unaccounted for. As a corollary, women are often the initiators of requests for news of family members.

Uncertainty about the fate of **missing family members** is a harsh reality for countless families and close friends, who are, as a result, themselves victims of armed conflict or internal strife. It is important to recall that all such persons affected by armed conflict or internal strife have the right to exchange news with their families, wherever their relatives may be, including members of the armed forces/armed groups and persons deprived of their freedom. Indeed, while they await clarification of their relative's fate, the families of missing persons have specific needs, which can vary according to personal and local circumstances and their cultural environment.

Consider the ways that the issue of missing relatives impacts upon the lives of women.

Women are left alone to bear the **economic** and **emotional** burdens attendant upon the loss of relatives, and often endure a concomitant loss of social status. They may be unable to access social assistance programmes if the fate of their husband or father is undetermined, or if eligibility for pensions or social assistance depends on the determination of the fate of their male relative. Employment opportunities may not be equal to those available to men, and many women may be ill-equipped to act as household breadwinner. In addition, women face countless constraints when searching for missing relatives. They may lack the **skills** and personal **resources** necessary to interact with the authorities in the course of their inquiries. Beyond the financial, cultural and social barriers, safety concerns further impede their access to those exercising political or military power, who could help them to determine the fate of persons unaccounted for.

Relevant legal framework

International humanitarian law (IHL) seeks to **maintain and restore family unity** by:

- preventing the separation of family members against their will;
- requiring the adoption of measures that facilitate family contacts or reunification where families are separated (due to being deprived of their freedom, displacement or participation in the armed forces);
- laying down measures aimed at facilitating the re-establishment of family ties and the reunification of dispersed families.

In practical terms, IHL seeks to preserve family unity by requiring parties to an armed conflict to identify persons under their control, enabling family correspondence, restoring family links and ascertaining the identity and whereabouts of the missing.

The obligation to **respect family rights** enshrined in the Fourth Geneva Convention, implies not only that family ties should be maintained, but also that they should be restored if they have been severed as a result of wartime events. In situations of occupation, if the Occupying Power carries out evacuations, it must ensure to the greatest extent practicable that members of the same family are **not separated**. When civilians are interned, family members must be **accommodated together** in the same place of internment. In the case of transfer, internees must be advised of their departure and new address in time for them to **inform** their **next of kin**.

IHL also requires belligerents to take measures to register the **identity** of persons in their control. The focus of these measures is on children as they are the ones most likely to lose contact and the most vulnerable when this occurs.

The First and Second Geneva Conventions provide detailed provisions on the collection, identification and burial of deceased combatants including the duty to:

- search for and collect the dead;
- record and transmit to the other side particulars which may assist in the identification of each deceased individual;

- report the date and cause of death;

- exchange death certificates and lists of the dead.

The right to **respect for family life** is also recognized by a number of universal and regional human rights instruments. For example, the International Covenant on Civil and Political Rights provides that no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence. The Convention on the Rights of the Child provides that children have the right to an identity and family relations, prohibits their arbitrary separation and lays down provisions concerning the maintenance of contact with parents and measures to promote family reunification.

Finally, the Genocide Convention includes among the acts which may amount to genocide the forcible transfer of children from one national, ethnic, racial or religious group to another, with the intent to destroy the first group in whole or in part.

1.11.2 Points to consider

Certain measures – when carried out in time – can prevent persons from going missing. State authorities have the primary responsibility of undertaking specific actions prior to and during situations of armed conflict and internal strife in order to foster a context in which persons are less likely to disappear. For example, proper **identification**, such as personal records, identity cards and identity discs, is crucial to accounting for persons reported missing.

A systematic registration of specific groups, among them vulnerable groups and people particularly at risk (separated children, persons deprived of their freedom, isolated persons such as the elderly and the disabled who are often left behind when civilians flee, displaced persons and refugees) can help families to find their loved ones.

Respect for the **right to exchange news** is another essential means of preventing individuals from going missing. This right has to be reaffirmed as fundamental and of high priority; State authorities must be reminded of their obligations in this regard. Preventive measures must be taken both to avoid a breakdown in communication between family members and to restore and maintain family contact, if necessary through the Red Cross and Red Crescent family news network.

It is essential that all family members be **allowed to know the fate of relatives** missing in relation to armed conflict or internal strife, including their whereabouts or, if deceased, the circumstances and cause of their death. State authorities always bear primary responsibility for preventing people from going missing and for ascertaining the fate of those who do.

In this respect, the role of the ICRC and of Red Cross/Red Crescent Societies is fundamental.

The mandate and role of the **ICRC Central Tracing Agency** (CTA), governed by IHL, can be described as follows:

- to collect, record and forward information on protected persons, for the purpose of identifying and locating them, protecting them from becoming unaccounted for, and informing their families;
- to forward family news between separated relatives, using all available means of communication: Red Cross messages, satellite phones, the Internet, radio, etc. The local media can also play a key role;
- to trace missing persons by checking hospital and morgue records, publishing lists of missing persons and visiting places of detention. The ICRC may produce a "Book of Belongings", containing photographs of clothing and personal effects found on recovered bodies, for family members of the missing to inspect to see whether there is anything they recognize as belonging to their missing relative;
- to facilitate and/or organize family reunifications, transfers and repatriations.

Dispositions to declare a person presumptively dead exist within the legislative framework of many countries, yet few families exercise this option as it may be regarded as a betrayal of the missing person. Certificates can be issued to families with missing relatives which, in some countries, entitle them to assistance.

Women whose husbands are missing experience many of the same problems as widows, albeit without official recognition of their status. In most contexts, there is no official acknowledgement of the status of "missing person" and consequently none of the legal entitlements or support, which generally exist for the widowed. This may jeopardize women's rights with respect to **property** administration, inheritance, **guardianship of children**, entitlement to **benefits** and the prospect of

remarriage. In many cases, families lack the means or information on how to search for a missing relative, how to apply for financial or material support and how to obtain legal advice.

Women in these circumstances often suffer from **social isolation** due to:

- cultural constraints and attitudes which make it difficult for relatives of a missing person to access available support, especially in communities where married women are forbidden from socialising or leaving the home unaccompanied. The opportunity for a private interview with the wife of a missing person may not be permitted by their extended family (in-laws);
- their undefined position in society (being neither wife nor widow);
- withdrawal because of fear, stress and psychological trauma;
- fear that remarrying would amount to "killing" the missing husband;
- logistical reasons such as physical distance, time, lack of transportation and limited finances;
- lack of information on how to proceed in the search for missing relatives, how to apply for material support and how to obtain legal advice.

Many of these factors also explain the **reluctance** on the part of families to report the fact that their relatives are missing. Indeed, in certain contexts, fear and mistrust amongst the population makes it impossible for the families to be open about their situation. They may be at risk of political reprisals or ostracism from their communities and therefore do not seek out the support that may otherwise be available.

The families' specific material, financial, psychological and legal needs must be addressed by the directly concerned State authorities, which bear primary responsibility. **Targeted assistance** must be provided, always taking into consideration the local and cultural context. Of special concern in this respect are single heads of families, often women, and separated children whose physical safety must be given special attention.

The families of missing persons have been found to suffer more **stress-related disorders** than other families, including those whose relatives are known to be dead.

In addition to losing a relative, these families are also living in, or have lived through, a conflict situation, during which they will very probably have experienced other traumatic events such as displacement from their homes, threats to their lives and physical violence, or have witnessed such events.

Lastly, family networks and **associations** can play an important role at several levels. They can in particular provide collective support to women and their communities; they can emphasize the role of the families on the issue of missing persons (and not only as victims) and exert pressure on policy-makers.

The development of such associations should be encouraged and supported by providing:

- means to cover operational expenses;
- support in capacity-building;
- support in creating networks with the local community and other bodies.

The ICRC acts on behalf of the families in their representations with the authorities and insists on the fact that after the conflict, the government must continue to search for the missing and facilitate access to information. Leaving this issue unresolved hinders the **social reconciliation** process and impedes progress towards a lasting peace.

1.11.3 Practical examples

EXAMPLE A

A woman attends church to light a candle. She is not sure whether to light it in the top section of the shrine for the living, or below for the dead. Her husband has been missing for two years. She does not know how much longer she will be allowed to stay in the temporary accommodation she has found. She feels the absence of both her husband and her own sense of identity: she is no longer someone's wife; she is no longer someone's daughter-in-law.

Upon viewing photographs of her husband's crumpled jeans, shirt and underwear in an ICRC "Book of Belongings", she realized with final certainty that her husband would never return. A "Book of Belongings", consisting of photographs

of clothing and personal effects found on recovered bodies, can help families recognize items belonging to missing loved ones, enabling the formal identification process to begin. Now, despite her grief, this woman has found a sort of respite in finally resolving the fate of her husband. Now she can begin to rebuild her identity in relation to this new reality.

EXAMPLE B

Many women affected by armed conflict staying in IDP camps, had been abandoned, widowed or otherwise separated from their families. When women sought to rejoin their families, they were advised to contact the relevant authorities or NGOs. In the endeavours to identify vulnerable women in IDP camps or transit centres and to re-unify them with their blood relatives, efforts were made to implicate local authorities wherever possible. Once all parties agreed, assistance was provided with the reunification.

The ICRC published a *vade mecum* containing the laws and regulations relating to the legal status and rights of families of the missing. Centres for families of the missing were opened. These centres had three main tasks:

- receiving requests to trace missing people with a view to ascertaining their whereabouts;
- giving legal and administrative advice to the families of missing people;
- providing such families with psychological support.

Specific interventions were made with regard to underage girls being forcefully held by soldiers as their "wives". Problems were encountered with regard to the registration of underage girls, as their "husbands" tended to hide them as soon as registration teams arrived. Although the law in the country only allowed men and women to marry upon attaining the age of eighteen years, according to customary law girls could marry from the age of fifteen. In large areas of the country, customary law was in force, hence it remained of the utmost importance to negotiate family reunifications with the traditional authorities, where girls wanted to leave but their husbands refused to let them go.

EXAMPLE C

In a South Asian country, during the last round of peace talks between the government and the opposition group, the ICRC was asked to help them set up an independent mechanism to ascertain the fate of persons unaccounted for in connection with the conflict. Acting as a neutral intermediary between the families and the relevant authorities, the ICRC helped people to obtain information on the whereabouts of their missing loved ones.

In this capacity, the ICRC has been approached by the families of over 20,000 civilians and combatants of whom they have no news. After receiving tracing requests providing details of these persons, the ICRC systematically submits their names to the authorities and opposition group in order to obtain information on their fate. At the same time, it works to heighten awareness of this issue among governments, the military, the opposition, national and international organizations and the general public. Thousands of tracing requests remain unresolved and the ICRC will continue its work in this country until all affected families are provided with an answer.

In the interim, realizing the pressing needs of widows and wives of the missing, the ICRC has initiated activities such as training skills workshops, micro-projects and counselling sessions.

1.12 ACCESS TO EDUCATION AND INFORMATION

1.12.1 Overview

Access to education and information are assets which help those caught up in armed conflict to deal with its effects. Education is a prerequisite for making informed choices, being able to participate fully in society, to earn a living and improve future prospects. It is widely believed that women can make a valuable and necessary contribution to the establishment of peace because of their **role as educators** in the family and community. Training and education aimed at helping women more fully perform this role could reap enormous benefits. This is especially significant as women generally have less access to education and information than men. The vast majority of illiterate adults in the world today, with no access to printed knowledge or information technology skills that would help them to augment their earning capacity and quality of life, are women.

In situations of armed conflict, access to information, pertaining to the **security** situation or the location of **assistance**, is often restricted. The civilian population is frequently cut off from information concerning issues that directly affect their security, because normal channels of communication are no longer available or not viewed as impartial. It may be particularly difficult for women and girls to obtain knowledge or information relating to issues of security.

Relevant legal framework

The provisions of international humanitarian law (IHL) concerned with education focus on the education of children. Parties to an armed conflict are required to facilitate the education of children separated from their families. Emphasis is placed on entrusting the education of such children to persons of a similar cultural background. During occupation, the Occupying Power must ensure the functioning of national and local institutions devoted to the care and education of children. IHL further provides for the education of prisoners of war and civilian internees as a recreational outlet.

The **right to education** is recognized in the International Covenant on Economic, Social and Cultural Rights and in regional instruments. The principal aim of the relevant provisions is ensuring children's access to education and this right must be granted to all without distinction including on the basis of sex. Several articles

of the Convention on the Rights of the Child are devoted to the question of education. The Convention on the Elimination of All Forms of Discrimination Against Women addresses **adult education** and **training** in detail, requiring States Parties to guarantee women equal rights with men in the field of education and access to information, including advice on family planning.

Refugee law provides that host States must grant refugees the same treatment as that accorded to nationals with respect to elementary education. Regarding further education, refugees must be treated as favourably as possible and, in any event, not be treated less favourably than foreign nationals generally.

Freedom of expression, encompassing the right to impart and receive information, is enshrined in the International Covenant on Civil and Political Rights and in all regional instruments, which provide that the right is subject to such restrictions as are necessary to preserve national security and public order.

1.12.2 Points to consider

What impact does armed conflict have on education and access to information?

In wartime, education is one of the first services to suffer disruption. Teachers flee, schools close or become inaccessible and children are displaced. Notably, women and girls are the first to abandon their education when household revenue declines. At the same time, armed conflict makes all the more pressing the need for education of children, men and women with respect to international humanitarian law and human rights, health and mechanisms for coping with conflict, and matters such as mine awareness. It is important that in situations of armed conflict men and women receive information on health issues, such as primary health care, and also on the dangers posed by **landmines** and unexploded ordnance. Women further require access to information enabling them to make informed decisions about their safety, to know their **rights** and to have access to assistance and training in order to learn alternative ways to generate an income. The local media can play a key role in facilitating the transmission of information essential to women.

How does the disruption to children's education affect women?

For many women, the education of their children is a primary concern. Not only do women feel that the future of their children is at stake, but having their children at school also releases women from daytime childcare obligations, enabling them to

carry out other vital activities such as earning an income. They also know where their children are when they are in school and have less fear of them being recruited by parties to armed conflict. Women heads-of-household need access to training opportunities to enable them to profit from income-generating projects and sustainable development programmes. The **constraints** facing women such as childcare responsibilities, lack of literacy skills and formal education and cultural aspects such as the need for female trainers, have to be fully taken into consideration in the planning and implementation of programmes.

1.12.3 Practical examples

EXAMPLE A

Women living in a conflict zone claimed to suffer from a lack of information. One reason for this paucity of information was that information was culturally perceived to be a male domain. However, access to information had become particularly important for women during the conflict, as many had become heads-of-household in the absence of their menfolk. Failure to acknowledge the status of many women as heads-of-household meant that they were not targeted for vocational training. Restrictions placed on the access of women and girls to sources of information limited their ability to be aware of potential threats to their security. They also lacked information on markets (available goods and services) curtailing their capacity to engage in any form of trade. Nor were they aware of the work of humanitarian organizations in the area. Moreover, their children had been rendered unable to attend school owing to severe damage to the premises and facilities resulting from the conflict.

The ICRC provided assistance and financial support to rehabilitate and furnish the local school with educational materials including books, pens, paper and blackboards. Food and clothing were also provided to facilitate children's attendance at school.

What impact did the improved rate of school attendance have on the mothers?

Having children in school eased the burden of daytime childcare obligations, enabling women to attend to other tasks. The women were thus able to embark upon training courses of their own. They were provided with education and information about specific security problems, such as the dangers of mines and unexploded ordnance in the local context. This augmented the ability of women in the area to make informed decisions about their safety, to know their rights and to gain access to assistance and training.

EXAMPLE B

The ICRC trained a number of illiterate nomadic women refugees in basic health care and hygiene. These women, who were selected for the task by their communities, were taught to recognize some frequently occurring diseases and health problems such as malaria, eye infections, anaemia, diarrhoea, poor hygiene and their consequences. They were taught how to prevent and treat these specific conditions and how to record basic statistics to permit an evaluation of their activities. To this end, the programme also involved imparting basic literacy skills, enabling women to learn and communicate vital health-care information.

1.13 RELIGIOUS AND CULTURAL PRACTICES

1.13.1 Overview

Everyone is entitled to freely practice his/her religion and observe his/her customs without persecution. Maintaining customs and cultural links strengthens cultural **identity** and coheres communities, often providing a means of coping with the trauma and stress of armed conflict. The civilian population is often at risk of being targeted for practising their religion, especially where the conflict has ethnic or cultural connotations.

Armed conflict can have an impact on traditional **marriage practices**. For example, practices such as polygamy can resurface or become more common due to the fact that many men have been killed and there may be an excess of women of marriageable age, encouraging men to take more wives. Changes in cultural practices can be brought about as a means of "protecting" girls by marrying them off before they can be harmed and because the war has caused such poverty that the dowry (bride price) cannot be paid. Also, in some contexts, marriage ceremonies may be rendered impossible owing to security risks and logistical reasons. In response, the ICRC has facilitated ceremonies in secure locations.

Relevant legal framework

The principle that everyone is entitled to **humane treatment** without adverse distinction (including on the basis of religion) is one of the cornerstones of international humanitarian law (IHL). In addition, IHL recognizes religious freedom, preserves the right of religious practice and grants religious personnel and places of worship special protection.

The rules of IHL regarding the specific application of this freedom in practice include:

- the duty to respect and protect religious personnel;
- the duty to respect religious convictions and practices, manners and customs;
- the requirement that suitable premises be provided for holding religious services for persons deprived of their freedom for reasons related to the conflict;

- the provision of items of worship in relief consignments;
- the requirement that persons who die in the hands of the enemy are buried in accordance with their religious rites;
- the prohibition on attacks against places of worship.

Religious freedom is protected by human rights law in two ways: first, all the rights laid down in treaties must be granted to everyone without distinction, *inter alia,* on grounds of religion; secondly, human rights instruments also recognize an unconditional right to freedom of religion.

A well-founded fear of persecution on the basis of religious belief is among the grounds for refugee status. It is prohibited to send persons to a place where their life or freedom would be threatened on account of their religion under the principle of *non-refoulement*. Furthermore, committing specified acts with the intent to destroy a religious group in whole or in part is prohibited under the Convention on the Prevention and Punishment of the Crime of Genocide.

1.13.2 Points to consider

Representations to parties to an armed conflict can be made on behalf of persons persecuted for religious reasons and with respect to the protection of places of worship, in order to put an end to such persecution. In doing so, it is necessary to be aware of the traditional religious attitudes towards the status of women in society, which may have a bearing on the programmes and activities that can be carried out with them and/or on their behalf. Women who lack appropriate clothing, have limited mobility or are displaced may be adversely affected in terms of their ability to practise their religion, observe customs and attend a place of worship.

The impact of restrictions on religious expression and the education of children with respect to religious dictates, exert a profound influence on an individual's dignity and sense of self. For example, in a number of cultures or communities, **widows** are required to wear special mourning attire but may be afraid to do so in wartime in case it marks them out as targets for persecution, especially where the deceased relative belonged to the opposing side in the conflict.

1.13.3 A practical example

In a conflict-affected country of Central Africa, the outbreak of armed conflict had greatly increased the incidence of sexual violence against women. Traditional community values and norms of behaviour had begun to disintegrate under the strains of violence and war.

Through contact with the local community, a humanitarian organization learnt about traditional cultural approaches to the issue of sexual violence. As part of a campaign against sexual violence, work was carried out in close collaboration with the local community to develop a stage performance demonstrating the traditional ways of dealing with sexual violence, of dispensing justice and of providing reparation to the victim. On stage, with a cast of local men and women, the traditional story of how the chief of the community listened to the account of the rape victim, reproached the aggressor, made reparation to the victim and attempted to initiate reconciliation was presented. The cast was provided with funding, equipment and assistance to promote and advertise the production.

The performance served as a reminder to the community of their traditional cultural coping mechanisms and techniques for healing and reconciliation used in response to sexual violence.

1.14 SOCIAL GROUPS

1.14.1 Overview

In many cultures, **community ties** and responsibilities provide a strong support network that is intricately woven into the fabric of society. Participation in social groups can provide the necessary interaction for learning about domestic, security, social and cultural issues, as well as fostering bonds of friendship and support. In situations of armed conflict these social networks may either disintegrate, be considered dangerous or, conversely, become fortified by the external threat and change their focus to become, for example, more political.

It should also be borne in mind that the obligation to conform to a particular social group may exert a constraining influence on women in many respects. When armed conflict forces women into new roles they may suffer exclusion from their community as a result of being seen to challenge or subvert traditional values and belief systems about the role of women in society.

Furthermore, as violence in general, and sexual violence in particular, severs community ties and causes the disintegration of social bonds, rebuilding these networks is of paramount importance. Violence is an act against the physical and moral integrity of an individual, but in certain conflicts, it is equally a destruction of the **essence of a community**: its foundations, its values, its achievements and its history. Often, women are regarded as symbolic bearers of this history and community identity, and are targeted as a result. To be able to treat the individual, there is hence a need to recreate their links of belonging. Humanitarian programmes must try to re-establish community links as a necessary component of the healing process. Recreating a sense of community can be achieved through symbolic acts, such as the construction of a funeral monument to commemorate the missing.

Relevant legal framework

Human rights law recognizes the importance of group as well as individual rights. For example, the right to a culture or a language are examples of rights aimed at preserving group identity as well as individual well-being.

1.14.2 Points to consider

Armed conflict can change the dynamics of a community. When providing protection and assistance, persons affected by armed conflict must be seen both as individuals and constituents of a specific community, family or other social group. In the course of interventions in favour of populations affected by armed conflict, it is necessary to both request the help of such groups and provide them with support, while endeavouring to ensure that this poses no risk to the safety of its members.

The role of women in social groups and the support they derive are important factors in healing wounds after an armed conflict and in **recreating social cohesion**. The international community should therefore encourage the establishment of such networks, in particular in countries emerging from crisis. Belonging to a group may provide physical safety for its members. The sense of belonging and peer support can also enhance emotional and psychological well-being.

Family **associations** and networks can play an important role in the support of families of missing persons: they can provide collective support to the family members and promote public recognition of the problem. Their development should be encouraged.

1.14.3 Practical examples

EXAMPLE A

A survey of a population affected by armed conflict in a country in West Africa identified that households headed by women who had lost their husbands during the war were unable to sustain their families. Ways needed to be found to help them generate an income. Several local women's associations were identified which could be supported and provided with additional training to manage a small loan scheme and to monitor the programme for women under their area of concern.

These associations initiated programmes such as: an agricultural programme to provide seeds, tools and training in planting and marketing skills for use on land assigned to the association; sewing training and materials for petty trade; soap manufacture; animal husbandry; tailoring workshops and "work-at-home projects". In addition, emphasis was placed on sensitizing local authorities and communities to the needs of women affected by armed conflict and involving women in relevant discussions and initiatives, with the aim of enhancing economic autonomy. By making it a condition of assistance that women create associations,

it was guaranteed that vulnerable women such as war widows and single mothers made connections with others in their community and gained necessary support. This was a preventive measure to reduce vulnerability of women who had been left alone after conflict. The most dynamic associations were provided with basic equipment such as furniture, a computer and a fax machine to assist them in establishing their associations and communicating with similar groups.

EXAMPLE B

In a conflict-stricken country of the Middle East, women from two opposing and traditionally divided ethnic groups came together in a community centre to act out, through dramatic improvisation, their respective experiences of discrimination, oppression and conflict. The establishment of a drama group provided both a means of self-expression and forged ties between women of otherwise segregated communities. The advantage of establishing solidarity groups or networks exclusively for women is that such communities are more readily accessible for women of religious affiliations that forbid them from mixing with men outside of their family. Women-only groups may provide the sole possibility for such women to share their experiences with others.

1.15 LEGAL ISSUES

1.15.1 Overview

There are two main aspects to the determination of legal issues facing women affected by armed conflict: the first pertains to the **availability of personal documentation** and the second to women's recourse to the law and legal remedies. There are often vital links between the two. Personal documentation may be a pre-requisite to accessing the authorities or the legal system; legal action may be the only way to clarify an important number of issues, such as a woman's marital status and property entitlements, or to procure identification papers.

Firstly, **personal identification** and registration documents are essential in order for persons to move freely, receive social assistance and often gain official recognition. People need credible legal status in order to successfully register births, deaths and marriages. Women, in particular, need documentation on the fate of their relatives, such as certification of death or deprivation of freedom, in order to be eligible for inheritance, compensation or social assistance. Such documentation often costs money. To alleviate this financial burden the ICRC has, for example, entered into arrangements with military hospitals for them to provide birth certificates free of charge.

Secondly, women need to be able to **access the legal system** to secure their entitlements to property, social benefits and to obtain justice for any infringements of their rights. At the same time, women need to assess for themselves what constitutes justice. They should not be pressured into testifying in court or seeking legal redress. Indeed, many women may opt not to suffer the gruelling process of giving evidence before a national court or international tribunal, which may compel them to relive painful experiences. On a practical level, insufficient funds, time and understanding of the legal process may deter women from approaching a lawyer. However, if women want to access judicial institutions, their participation should be supported and they should be encouraged to come forward and tell their own stories, not just those of male relatives. Many women are unaware of their legal rights and encounter considerable barriers to accessing justice, such as illiteracy, cost, threats of violence from family members and the possible bias of local police, lawyers and members of the judiciary. In one country in Central Africa where sexual violence was rife, to file an allegation of sexual violence with the police, women needed $50 and the agreement of their husband.

Relevant legal framework

Although international humanitarian law (IHL) does not recognize an entitlement to personal identity documents, many of its provisions, principally those aimed at ensuring proper identification of combatants and family unity, require that such documents or other means of identification be issued. (See "PRESERVATION OF FAMILY LINKS", 1.11, p. 88.) Also significant are the rules applicable in international armed conflicts requiring the transmission of death certificates or authenticated lists of the dead, and also of wills, powers of attorney and other legal documents relating to persons in the power of the adverse party.

Regarding the right to property, see "SOURCES OF LIVELIHOOD", 1.7, p. 61.

The 1951 Refugee Convention requires the host State to supply identity papers to refugees in their territory who are without valid travel documents.

1.15.2 Points to consider

War widows and wives of the **missing** are especially vulnerable, as documentation and assistance are often unavailable to them. They may be unable to access social security entitlements, which previously accrued to their closest male relative. In some countries, women and children are not issued with personal documentation in their own name and may only be included in the passport or identity papers of their male relatives, as men usually possess greater mobility/freedom of movement. Even where women have been issued with identity documents, they are frequently lost or destroyed in the confusion of war.

It is essential to be aware of the complications a lack of documents can cause, especially for women, with respect to personal safety and receiving assistance. The consequences of this should be included in evaluations of protection issues of civilian populations and, if necessary, representations should be made to the competent authorities. In addition, those providing support must also be well-informed about the local legal system in order to be able to refer women who lack proper documentation to the appropriate authorities.

When individuals are not in a position to obtain documents owing to security concerns related to approaching the issuing institutions, the ICRC, in its role as neutral intermediary, may request such documents on their behalf and ensure their transmission.

For those who have no official identification documents but need to travel, *inter alia,* for family reunification purposes, an ICRC travel document or similar document can be issued.

The criteria which must be satisfied before a **travel document** can be issued include:

- that the person concerned does not possess any other kind of document allowing a journey;
- that the person concerned has all the required visas for the country of destination and all possible countries of transit;
- that the person concerned has an exit visa from the authorities of the country s/he wishes to leave.

It is important that humanitarian organizations are aware of local institutions or NGOs that provide, free of charge, information on the relevant bodies of law or legal representation. In the absence of such services being in place, humanitarian organizations may consider hiring local lawyers to provide them.

1.15.3 Practical examples

EXAMPLE A

Under many systems of traditional, customary law women are prohibited from owning, renting or inheriting land, property and housing in their own names. Therefore women's access to land, property and housing commonly depends on having a male relative. Widows, wives of the missing or unmarried daughters without fathers may be prevented by law from accessing their land and property, which instead passes to the closest male relative. Male heirs increasingly opt to sell the land for financial gain. Consequently, women may become destitute, or forced into begging or prostitution to survive.

In the aftermath of conflict in Rwanda, there was great concern about women's lack of property rights and the possibility of their being forced off farms or unable to return. As property traditionally passed through the male lineage, widows without sons faced the risk of losing their homes to the deceased husband's relatives.

In response, efforts were made by many organizations to ensure that women, who generally had less education and access to the public sphere than men, were aware of their legal rights. Steps were taken to ensure that women were able to seek legal advice and redress, and to obtain access to legal representation. At the same time, many organizations and groups also lobbied for legal reform to enable women, especially war widows, to retain title to their land.

EXAMPLE B

In the Balkans, families of the missing, especially refugees and internally displaced persons uprooted from their homes, had to contend not only with the emotional and economic burden of having a missing relative, but also with a number of legal and administrative issues. The ICRC identified that, amongst other needs, the families of missing persons required support in order to access certain rights and benefits to which they were legally entitled.

On the basis of this identified need, the ICRC undertook a study to assess the obstacles that prevent families of the missing from accessing their legal rights. One of the aims of the study was to assist them in overcoming the legal barriers and administrative difficulties they faced in this regard.

The research was based on interviews with families of the missing and discussions with governmental authorities and relevant international and local non-governmental organizations. The discussions focused on:

- benefits for the families of missing civilians and missing combatants;
- accessing family pensions;
- claiming property rights in different jurisdictions;
- remarriage of the spouse of a missing person;
- guardianship of a missing person's child.

It was discovered that obtaining the relevant documents in order to submit claims in respect of the above benefits and rights often proves difficult, as in many cases the relevant papers have been lost or destroyed, left behind in former places of residence or were with the family member when s/he went missing. A further

difficulty was that in some circumstances, it was necessary for the family to declare their missing relative as dead in order to obtain benefits – a step which the families were often not prepared to take. In addition, a key issue underpinning all the legal problems facing families of the missing was that in some countries the law does not recognize the status of a person as "missing". Apart from certain limited benefits accorded to families of missing combatants, the law only takes into consideration people who are either dead or alive.

The study resulted in a number of recommendations for amendments to existing law for the possible introduction of new legislation to enable families of the missing to more readily access the rights and benefits to which they are entitled. The key recommendations were as follows:

- that the families of missing civilians and missing combatants should be recognized and treated equally;
- that reciprocal agreements should be negotiated and established between different countries in the Balkans in order to benefit the families;
- that the authorities and relevant State commissions should be proactive in informing the families of the missing about the rights and benefits to which they are entitled;
- that the right to appoint a provisional guardian should be enforced, particularly in those circumstances where the only alternative is to proclaim the missing person dead, which is a drastic and traumatic step for the families;
- that a "certificate of absence/missing" should be introduced particularly in those situations where the only way for families of the missing to access their rights is to produce a death certificate.

These recommendations were addressed to State authorities as, under international humanitarian law, it is States party to a conflict who bear the ultimate responsibility of informing the families of the fate of their missing relative. The study also formed part of a wider project undertaken by the ICRC to raise awareness amongst governments, the military, international and national organizations and the general public about the tragedy of people unaccounted for as a result of armed conflict or internal strife, and the pain and anguish of their families. Following this study, a legal brochure was produced and distributed, and copies were kept in the local ICRC offices so as to be available to families upon request.

PART II: WOMEN DEPRIVED OF THEIR FREEDOM

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PART II: WOMEN DEPRIVED OF THEIR FREEDOM

ICRC detention visits: approach and procedure

This section highlights the **specific needs** of women deprived of their freedom, with a view to ensuring more effective and appropriate responses. During armed conflict women, like men, may be deprived of their freedom for a number of reasons: reasons directly related to the conflict, reasons unrelated to the conflict (generally those detained for ordinary crimes) or for security reasons stemming from conflict or internal strife.

Throughout this section the term **"deprived of freedom"** designates anyone held in custody by a detaining authority, irrespective of whether they have been tried and sentenced and irrespective of their legal status.

The global situation of those deprived of freedom must be analysed in order to identify the persons or groups of persons with particular protection needs, whatever the grounds for their incarceration. Men, women, boys and girls have **different** as well as **convergent** needs and vulnerabilities. Women must receive attention with due consideration to the particularities of their condition. For example, women have specific needs for privacy, may require additional space if their children are accommodated with them, and have specific health, hygiene and material needs. The lack of appropriate medical structures in many places of detention, the inadequate functioning of such infrastructure and the limited access to alternative health facilities (owing to security concerns, lack of guards, inability to pay for health services and limited means of transportation), can impact on the health of detainees. There are many health needs for women such as screening for cervical cancer, breast cancer (which could be life-saving), anaemia, and appropriate care during pregnancy, that entitle them to specific protection and assistance.

The Geneva Conventions expressly confer upon the ICRC a **mandate** to visit prisoners of war or civilians detained or interned in a situation of international armed conflict. In the context of a non-international armed conflict or internal strife, the ICRC has a right of initiative (pursuant to Article 3 common to the Geneva Conventions; Additional Protocol II or the Statutes of the International Red Cross and Red Crescent Movement respectively) to offer its services to visit persons deprived of their freedom. Acceptance by the detaining authorities of such visits can afford a measure of **safety** to persons deprived of their freedom not only in the psychological sense of providing a "lifeline" – reassuring them that someone knows of their existence and conditions, and is working to put an end to any ill-treatment –

but also, if necessary, in the material sense of supplementing resources. ICRC visits also provide additional security against the risk of disappearances. That being said, it is the **responsibility of the detaining authorities** to ensure that all persons deprived of their freedom under their control are treated humanely.

ICRC detention visits: protection

The experience of the ICRC has shown that the following specific **conditions** are necessary for detention visits to have a meaningful impact:

- seeing all persons deprived of freedom who come within its mandate and having access to all places in which they are held;
- speaking with persons deprived of their freedom in private;
- being able, during the visit, to record the identity of persons whom it considers to come within its mandate, or to receive a list from the authorities and be able to check and supplement it if necessary;
- being able to repeat its visits in order to see persons deprived of their freedom and assess their detention environment, to follow-up on recommendations and in order to ensure that persons visited are not subsequently subjected to reprisals.

The main **objectives** of an ICRC detention visit are to encourage the detaining authorities to modify their behaviour regarding:

- disappearances;
- ill-treatment and torture;
- sub-standard detention conditions;
- lack of adherence to judicial guarantees;
- inadequate efforts to re-establish and preserve family links.

Training undertaken by ICRC staff working in the context of detention includes sensitization to the issue of **sexual violence** and how to react to victims. It is important for delegates to be sensitive to signs of sexual violence and aware of indirect allusions to the possible use of sexual torture, which may vary from culture to culture (for example, expressions of shame, fear of husband/family finding out about the torture etc). When working in places of detention it is essential to know how to react appropriately and sensitively to persons who may be traumatized by past, present or ongoing exposure to sexual violence, and/or other violations.

Where possible, delegates and translators visiting places of detention do so in teams comprising both men and women. Experience shows that persons deprived of their freedom generally perceive **mixed teams** as more approachable. The advantage of including women in the teams is that they may inspire the confidence of female (and often male) persons deprived of their freedom to share their experiences.

Detention visits, and more specifically individual interviews, should aim to obtain adequate **information on the situation of women** deprived of their freedom: their conditions, their treatment, their access to health care, the extent of contact with their family; their specific needs and vulnerabilities. The information collected makes an important contribution to the objective of attaining improvements in the prevailing conditions and treatment of women through the intermediary of the detaining authorities.

ICRC detention visits: assistance

Providing material assistance to persons deprived of their freedom is a complex and delicate issue. In detention environments, although they exist and could be sufficient, coping mechanisms and the ability of persons to find alternative ways to respond to their needs are limited. As they are directly dependent on the detaining authorities, the ICRC considers that it is the primary role of the authorities to respond to the needs of those they deprive of freedom and ensure they have adequate conditions of living.

The needs of different groups must be taken into account and the different types of assistance must be distinguished. The three main categories of **material assistance** are as follows:

- emergency material assistance, which aims to save lives and preserve the physical integrity of detained persons;

- limited material assistance, which aims to improve the living conditions of detained persons, such as recreational materials;

- lasting material assistance, designed to meet the ongoing needs of detained persons, such as building, renovating or repairing facilities.

From the ICRC's point of view, what risks are inherent in supplying persons deprived of their freedom with "lasting material assistance"?

Meeting their needs is the **responsibility of the detaining authority** at all times and this responsibility should not be undermined. Inmates may be provided with assistance on an ad hoc basis when an urgent need cannot be covered by the authorities. As a general rule, the ICRC avoids substituting itself for the authorities and encourages them to discharge their duty of providing for the maintenance of detainees and improving their living conditions. It is often difficult for the ICRC to strike the correct balance between alleviating the needs of persons deprived of their freedom and not creating a sense of dependency by assuming the responsibilities of the detaining authorities. In situations where the willingness of the authorities to improve detention conditions is limited by structural weaknesses and budgetary constraints, the ICRC often complements its assistance strategy by offering support in terms of capacity-building to help improve the penitentiary system.

2.1 ACCOMMODATION, FOOD AND WATER

2.1.1 Overview

Is the fact that there are generally fewer women than men in detention environments an advantage for women deprived of their freedom?

Women detained or interned, whether or not in relation to armed conflict, are the **minority** in populations deprived of their freedom in countries throughout the world. However, their conditions are not necessarily better because they are fewer in number. On the contrary, it is often the case that places of detention are less able to cater for women's needs, being primarily designed to house men.

The fact that women constitute the minority of detainees, and that facilities for them are often limited, gives rise to a difficult dilemma. Women may be held in detention facilities that deny them adequate conditions of **privacy**, **safety** and access to **health care**. Detention facilities exclusively for women may be few in number and so may entail women being transferred far from their family or from the court in charge of their trial.

Relevant legal framework

International humanitarian law (IHL) includes numerous rules relating to the places in which persons may be interned or detained. The principal concerns are the **location** and basic **conditions** of the places of detention and the **grouping** of different categories of persons deprived of their freedom.

Places of detention should not be located close to combat zones. Under the Third Geneva Convention, prisoners of war and persons entitled to prisoner of war status must only be detained in premises located on land affording every guarantee of **hygiene** and **health**, including favourable climatic conditions. Furthermore, all prisoner of war camps must contain open spaces for the purpose of outdoor exercise. The Fourth Geneva Convention lays down similar requirements for interned civilians.

Whatever the reasons for their deprivation of freedom, women must be held in separate quarters from men and must be under the immediate supervision of women. Whenever members of the same family are deprived of their freedom, they should be **accommodated as a family unit**.

Turning to **human rights** law, the International Covenant on Civil and Political Rights and the American Convention on Human Rights requires accused persons to be detained separately from convicted persons and minors to be separated from adults. The Standard Minimum Rules for the Treatment of Prisoners also requires the separation of different types of detainees as well as including an express requirement that, as far as possible, women be detained in **separate institutions** from men and that in institutions accommodating both sexes the premises allocated to women be entirely separate.

2.1.2 Points to consider

On the basis of international standards and international humanitarian law, the detaining authorities must hold men and women in **separate** places of detention and must also separate adults from minors (with an exception for members of the same family when interned).

This is due to the fact that different legal regimes apply to different categories of detainee, and further serves to avoid friction between different groups, to guard against the exploitation of vulnerable detainees and to ensure individual safety and privacy. Women detained with their children may require separate quarters from the rest of the detainee population, as the noise, crying and any illnesses suffered by infants may exacerbate tensions between inmates in the same cell. Where living conditions jeopardize the physical or psychological integrity or dignity of women, representations should be made to the detaining authorities.

Is the problem of overcrowding merely a question of available surface area? What other factors are relevant?

Having sufficient space also includes the ability to move outside of the cell and the duration of daily access to the open air. It is also contingent upon the nature of the surroundings. For example, having windows in cells where space is limited can alleviate the sense of being cramped and confined, and can provide good ventilation and natural light. Detaining women in the same prisons as men may indirectly restrict their movement and access to open air, as women may fear for their safety if they are compelled to mix with men every time they move beyond their cell.

Women may have less **access to the open air** than men for several reasons:

- the prison facilities may not include a separate yard for women;
- there may not be enough female guards to supervise the women;
- the women may be victims of discrimination (penalized on the basis of belonging to an ethnic minority group; due to being held for prostitution or accused of having contravened socio-cultural norms related to "honour"; or simply for being a woman).

It is important to note that persons deprived of their freedom should be housed in places appropriate to the **length of their detention** and to the **climatic conditions**. Regarding the duration of detention, women who remain in detention for long periods of time are at risk of receiving no family visits and therefore becoming increasingly isolated and cut off from external support and supply. Regarding climatic conditions, inmates should be furnished with bedding and clothing adapted to local conditions. Special consideration should be given to the bedding provided to mothers housed with their children. This should be tailored to cultural norms, for example, by providing blankets large enough for a mother to sleep with her child where this is standard cultural practice.

In addition, the quality and quantity of **food** and **water** supplied to inmates is a crucial determinant of the adequacy of their conditions. It is important to ensure that there is no adverse discrimination in food distribution on the basis of sex, ethnicity or nationality. **Supplementary provisions** should be provided to nursing mothers and pregnant women, who should receive specific vitamin and mineral supplements (calcium, iron, folic acid etc) as well as a diet containing sufficient calories and protein for their needs. Such women should never have to queue for long periods to obtain their meals. If nursing mothers are unable to produce milk, an alternative must be provided. Where milk powder is given, precautions must be taken by the person/organization distributing the product to ensure that the water, preparation and dilution of milk powder and feeding materials are hygienic. The ICRC, like many organizations, follows strict guidelines with regard to the distribution of milk powder and baby bottles, such as only making distributions where it is absolutely necessary, as decided by a health professional, and is able to be monitored. In terms of improving the diet of persons deprived of their freedom, the ICRC has also engaged in building improved ovens in prison kitchens.

According to international standards, **drinking water** should be available in sufficient quantity to all people deprived of their freedom. Women held in places of detention where they are in the minority are often housed in sections lacking adequate access to water. To prevent women from being forced to collect water from the male section, water should be brought to their cells or other appropriate location, and the necessary containers should be provided. This can be a particularly acute problem for women, who require **additional water** during menstruation, after giving birth or for their baby.

Finally, it is vital that prior to any provision of assistance, a careful assessment is made to ensure that internal, **pre-existing coping mechanisms** are not disturbed. For example, where prisoners have organized themselves into internal hierarchies and groups, providing external assistance to one group of detainees and not another could lead to threats or violent reprisals against the beneficiaries of assistance. If the assistance is given to the authorities, it is necessary to check that it is reaching the intended persons.

It is incumbent upon the detaining power to provide for the sustenance of detainees **free of charge**. Materials such as water storage utensils, however, are frequently supplied by the ICRC in places of detention, to improve hygienic conditions.

2.1.3 A practical example

An evaluation of the detention conditions of women deprived of their freedom in a country in Asia highlighted that most prison compounds throughout the country had very limited space. This strained relations between inmates and heightened tensions between guards and inmates, as maintaining order and moving prisoners became more difficult. In this hostile environment of overcrowding and the intermixing of women, men and children, a number of indications pointed to the occurrence of sexual violence. However, the women affected were too afraid to make allegations against guards or other prisoners for fear of reprisals and owing to feelings of shame and guilt.

The ICRC requested that the authorities transfer female inmates from the mixed prison facilities to a women's detention centre.

Would such a transfer always be in the best interests of women detainees? What potentially detrimental effects should first be considered?

In making this request, the following factors were taken into account:

- the wishes of the detained women;
- for women undergoing trial, the proximity of the relevant court;
- the location of the families of the women and the possibility of family visits;
- whether the living conditions in the women's detention centre would be better than those currently experienced;
- the presence of female guards;
- the possibility for women detained with their children to remain together;
- that the authorities would keep a record of all transfers of detainees;
- that the transfer itself would not compromise the physical and psychological integrity and dignity of the detainee;
- whether a better alternative might be to reorganize the women's compound and to allocate more space to, and ensure the separation of, women's facilities.

2.2 TREATMENT AND SAFETY

2.2.1 Overview

Ill-treatment includes any form of torture, or cruel, inhuman or degrading treatment. The ill-treatment of women in detention often includes such acts as rape and other forms of sexual violence, forced termination of pregnancy or sterilization, strip searches in the presence of men, abusive and degrading insults, forced separation from or disappearance of children, abusive medical examinations or body searches, solitary confinement, non-provision of sanitary material during interrogation, prohibition of family visits and forced prostitution.

In detention, it is the shocking reality that women nearly always suffer sexual violence and men often do.

Is sexual violence a violation that necessitates only a medical response?

Medical attention is important for two general reasons, the first of which concerns the treatment and counselling of the victim, and the second of which relates to the documentation of the possible consequences of the sexual violence for medico-legal purposes. Women may be pregnant as a result of rape upon arrest or in detention. Sensitivity and delicacy is needed when trying to ascertain whether this is the case. A detainee will require support in coping with pregnancy in difficult conditions, especially if the pregnancy is the result of sexual violence. However, simply referring a victim of sexual violence to a doctor can result in the **"medicalization" of sexual violence**. A multidisciplinary team (comprising physicians, counsellors, psychologists, lawyers etc) should be formed where feasible to ensure that those monitoring detention conditions are able to recognize and respond to the various needs of victims of sexual violence through confidential interviews, assuring appropriate assistance and interventions with the detaining authorities, where requested and agreed to by the person detained. It is important for such victims to realize that they are not alone, are believed and will be listened to.

For a more comprehensive analysis, see also "SEXUAL VIOLENCE", 1.2.

Relevant legal framework

The prohibitions on ill-treatment and sexual violence discussed in Section 1.2 above also protect women deprived of their freedom. In both international and non-international armed conflicts, international humanitarian law (IHL) stipulates that women who have been deprived of their freedom for reasons related to armed conflict must be held under the **immediate supervision of women**. Additionally, the Fourth Geneva Convention provides that female civilian internees may only be searched by women.

According to the Standard Minimum Rules for the Treatment of Prisoners, where a prison institution accommodates both men and women:

- the quarters set aside for women must be under the authority of a woman officer, who must have custody of all the keys to that part of the institution;
- no male member of staff may enter the part of the institution set aside for women unless accompanied by a woman officer;
- only female guards may supervise detained women.

2.2.2 Points to consider

Silence should not generate a presumption that there has been no ill-treatment. Shame, fear, cultural taboos, lack of appropriate language, or a sense of futility may make women – and men – **disinclined to disclose ill-treatment**, especially of a sexual nature. Discussions with detainees should be carried out in private so they can express themselves more freely. When speaking with pregnant women it will be relevant to ask when they fell pregnant (before or after their arrest) as this will reveal important information about the detention environment. If women have become pregnant after their arrest, this may denote that women and male prisoners mix, that prostitution is occurring or that rape is being perpetrated either by guards, other prisoners or even in police stations. On the basis of these interviews, interventions can be made to the authorities to propose concrete measures aimed at improving the treatment of detainees, if the detainee so agrees. It is noteworthy that in places of detention where "conjugal visits" are allowed, there are far fewer reported incidences of sexual violence.

Medical options for victims of sexual violence may be limited in places of detention as there may be problems in convincing the detaining authorities to accept the need for medical assistance for victims of ill-treatment. Where medical services and supplies are limited, they are often even more limited for women, especially regarding reproductive health care for victims of sexual violence.

Persons visiting detainees, including medical doctors, must know how to counsel a detainee in such a situation. Important aspects of such **counselling** include:

- maintaining a non-judgemental manner;
- refraining from expressing reactions of shock, disbelief or disrespect;
- being a patient listener and not pressing for information that the individual is not ready to reveal;
- explaining to the interviewee what can and cannot be done with the information obtained;
- respecting the wishes of the victim with regard to confidentiality.

It should also be borne in mind that in many detention contexts, there is a danger that prison authorities may conflate the problem of sexual violence with that of **prostitution**. This may result in the toleration of sexual violence against women detained for (actual or alleged) prostitution.

Rules and **regulations** should exist in every place of detention regarding the relationship between guards and persons deprived of their freedom, particularly women. Detaining authorities should be strongly encouraged to recruit female prison personnel for the supervision of female detainees. The **recruitment** of female personnel will not in itself guarantee the appropriate treatment of female detainees, thus detaining authorities must be encouraged and/or assisted to provide adequate **training** to prison personnel. Furthermore, clear rules, regulations and tasks must be defined for prison personnel, explaining the expected role and behaviour of guards in the process of accomplishing their job especially with respect to women. Where abuses of this position occur, the detaining authority must ensure the appropriate sanction ensues.

Where body **searches**, including body-cavity searches, are conducted effective measures must be taken to ensure such searches are carried out in a manner consistent with human **dignity**, personal security and general international human rights standards. In particular, persons subjected to body searches should be examined only by persons of the same sex, trained personnel and by personnel separate from the medical staff so that security issues and medical matters are not mixed.

A woman who has been subjected to ill-treatment, including sexual violence has the right to receive medical attention either for wounds inflicted, diseases contracted or for counselling regarding the likely medical repercussions of the abuse. Detaining authorities are responsible for the provision of medical treatment for detainees, however, detainees may be afraid or unable to ask them for medical attention. The availability of female medical staff may ease such concerns.

2.2.3 Practical examples

EXAMPLE A

The number of custodial sentences imposed upon women in a country in Asia increased disproportionately because of the growing number of women being arrested as sex workers or for transporting drugs. Among the female prison population, women detained for alleged prostitution were particularly vulnerable. When women complained of discrimination in relation to food, work and recreational activities, the official response was frequently the dismissive statement: "these women are prostitutes".

The ICRC made interventions to put an end to discrimination in food distribution and to engage female prison authorities (responsible for women detainees) in discussions to make them aware of their responsibility to ensure that all women receive the same treatment, and to prevent certain women from being subjected to more strenuous work or being deprived of their basic sustenance and material needs, on the basis of the offence with which they are charged.

EXAMPLE B

Is it possible to speak of voluntary prostitution when women are in a prison environment?

As a result of extreme poverty and deprivation amongst a considerable number of women in a detention place in Africa, women prostituted themselves for even meagre remuneration or protection. An important dimension of the problem was the fact that basic food and hygiene needs within the place of detention could not be satisfied without payment. Young women were especially easy targets for extortion and exploitation. This resulted in a situation of institutionalized corruption and the extortion of money. Furthermore, while men were receiving supplementary assistance from wives, mothers and other relatives, women generally received far fewer family visits than their male counterparts, and thus less material assistance.

It was also determined that allegations of sexual violence, which due to cultural constraints or to feelings of shame and guilt were not readily raised, predominantly concerned the period during and immediately after arrest and interrogation by the police.

The strategy adopted to redress this was to evaluate the link between the extent of prostitution and the extreme poverty amongst female detainees, in order to present recommendations to encourage action on the part of the authorities to prevent the resort to prostitution by providing adequate protection (against security risks posed by guards and male prisoners) and assistance (such as food and other material needs).

Financially supporting, assisting and otherwise facilitating family visits reduced the need to supply supplementary materials to persons detained and created a sustainable, long-term solution to the poverty of detained women. This diminished the need for ICRC distributions and was clearly more beneficial to the detainee in light of the human connection involved. Follow-up visits continued, to ensure that the resort to prostitution decreased.

EXAMPLE C

The eruption of hostilities in a country in Africa triggered a significant increase in women deprived of their freedom. The local prison had previously housed men, with only exceptional cases of women being held. Measures needed to be taken to accommodate the influx of women. A further problem was that owing to the trauma most of these women had experienced as a result of the conflict, the intervention of psychologists and social workers was required.

The Prison Service was asked to take measures to ensure that the newly arrived female detainees were accommodated in conditions of privacy and security. In addition, steps were taken to remedy the lack of educational and recreational activities available to women. Endeavours were made by the ICRC to put the authorities in contact with local NGOs, that were ready and able to provide assistance.

2.3 HEALTH AND MEDICAL CARE

2.3.1 Overview

Detaining authorities must provide **free medical care** and medicines to all persons deprived of their freedom. Women deprived of their freedom have specific medical needs, which differ from those of men. Women may be more vulnerable to health problems owing to their reproductive capacity, including menstruation, which heightens the risk of anaemia and mineral deficiencies. Women have the right to medical check-ups, medicines and treatment including gynaecological, obstetric, antenatal and postnatal care, in accordance with local standards.

Health care also encompasses **psychological well-being**. An adverse environment, including the absence of a social support network and an abnormal mother-child relationship, can aggravate the psychological hardship suffered by women.

The health of detained populations can be particularly precarious due to overcrowding, limited resources and possible deficiencies in the **availability** and/or quality of medical care. **Access** to treatment is often controlled by non-medical staff with minimal training in assessing the urgency of cases. This may obstruct ill persons from accessing medical personnel and medicines. It should not be forgotten that **nutrition** and **sanitation** are the foundation for health in detention for all persons deprived of their freedom.

Relevant legal framework

International humanitarian law (IHL) expressly addresses the issue of **medical care** for persons deprived of their freedom. In international armed conflicts the detaining power is under an obligation to provide, free of charge, any medical attention required by the state of health of such persons. Medical care for prisoners of war and civilian internees is dealt with in detail. With regard to maternity cases and other persons whose medical condition requires special treatment amongst civilian internees, specific provision is made for their admission to an appropriate medical facility. Medical supplies form part of **relief shipments** that prisoners of war and civilian internees are entitled to receive individually or collectively.

In non-international armed conflicts, persons deprived of their freedom for reasons related to the conflict must be afforded safeguards as regards health to the same extent as the local population and must have the benefit of medical examinations.

IHL prohibits subjecting persons deprived of their freedom to any medical procedure not indicated by their state of health (such as physical mutilation, medical or scientific experiments, removal of organs or tissue for transplant).

The Standard Minimum Rules for the Treatment of Prisoners address medical care, including the special needs of detained women. The Rules provide that the services of a qualified medical officer with some knowledge of psychiatry must be available at each place of detention; that sick prisoners requiring specialized treatment must be transferred to specialized facilities; and that in places of detention housing women there must be special accommodation for prenatal and postnatal care and treatment. Provision is also made for a proper nursery and supervision of infants during periods when they are separated from their mothers.

2.3.2 Points to consider

Mothers detained with their children and pregnant women may suffer acutely in situations where there are problems of access or poor levels of health care. A general **medical examination** on arrival in a place of detention should be standard procedure, to assess the health of detainees and whether a woman is pregnant and in need of particular care. In addition, women deprived of their freedom should receive appropriate and regular medical screening for diseases such as breast and cervical cancer, and where necessary, appropriate treatment. Male medical staff should, wherever possible, be accompanied by female staff when carrying out examinations of women. Such examinations should not be observed by non-medical prison personnel for reasons of preserving the confidentiality of medical examinations. Abusive medical examinations (e.g. unnecessary intimate examinations, especially of female detainees in front of male guards) should be prevented at all times.

Persons deprived of their freedom should receive **primary health education** with regard to hygiene, sanitation, the transmission of infectious diseases etc. The ICRC runs a programme to train staff working in a detention environment on how to prevent the transmission of HIV/AIDS. These staff members then reproduce the information session for the detainees. The ICRC encourages detaining and medical authorities to put in place preventive measures and provide appropriate treatment for diseases such as sexually transmitted infections (STIs). Women should receive

education with regard to maintaining their own health and hygiene and in relation to the transmission of infectious diseases (Tuberculosis, STIs, HIV/AIDS).

With respect to the issue of mental health, individuals suffering from mental illness should not be detained in prisons, but in appropriate mental health institutions. If they are detained, they should receive appropriate medical and psychiatric care.

Pregnant women and nursing mothers should be provided with appropriate medical care, including **gynaecological**, **obstetric**, **prenatal** and **postnatal care**. Pregnant women should be able to give birth in a medical establishment outside the prison and should not be chained or tied up during delivery. If security conditions require the presence of guards, only female guards should be present. A baby's birth should be registered and a birth certificate provided which does not specify a detention facility as the place of birth. Infants staying in detention with their parent(s) must be given appropriate medical treatment and immunization, on par with that administered to the local civilian population.

Staff should become familiar with national health policies (especially regarding reproductive health care/family planning) in order to facilitate the access of women to available services to prevent maternal morbidity, mortality and other medical problems.

2.3.3 Practical examples

EXAMPLE A

In collaboration with prison authorities in Colombia, innovative health promotion and prevention activities among the female prison population were carried out by the ICRC.

A particularly noteworthy programme was implemented for early breast-cancer detection in prisons. This initiative was vitally important for women held as long-term detainees. The programme involved conducting regular tests to detect or treat breast cancer among women deprived of their freedom. To date, 90% of such women have participated in this programme.

Subsequently, this programme was taken over by the Colombian Ministry of Health.

EXAMPLE B

In interviews with female detainees in a country in Asia, one of their main concerns was the lack of access to appropriate medical care. This was not due to an absence of medical facilities, but rather to the lack of female medical staff. Most of the women refused to seek medical advice or care from male personnel. Those found to be suffering particularly were pregnant women and mothers of young children as there was an absence of prenatal, postnatal and obstetric care available, and vaccinations of children rarely occurred. Women feared having to give birth in the place of detention owing to the lack of appropriate facilities and proper care. This was compounded by a lack of procedures for the transportation of urgent cases to other medical establishments. Detainees reported that even critical patients had to wait many days before being removed from their cells and sent for medical treatment.

A further concern raised by detainees was the involuntary testing of blood for HIV/AIDS. There was no provision for the consent of the person tested, for confidentiality, or for notification of and/or counselling regarding the result of the test. There was also great concern over whether blood tests by medical personnel were carried out with sterile needles.

The ICRC raised these issues with prison authorities in order to heighten awareness of reproductive health issues and of the dangers of unsterile and involuntary blood tests. Regular visits were paid to a number of detained women in order to monitor and follow-up on previously administered medical care.

2.4 HYGIENE AND SANITATION

2.4.1 Overview

It is incumbent upon the detaining authorities to provide sufficient **sanitary facilities** with **safe access** for persons deprived of their freedom. The detaining authorities should also ensure that all quarters and facilities are cleaned regularly and are free from vectors of disease such as parasites, rodents and insects.

In order to maintain health and hygiene and to limit the spread of infections, detained persons should have regular access to toilet and washing facilities. On account of their physiological needs, women often require more water for washing than men. Yet it is often the case in custodial establishments for women that detaining authorities do not provide adequate resources to maintain hygienic and sanitary conditions.

Sanitary facilities are often worse for women than men, as they have less **access** to water and toilets for several reasons:

- women may not be detained in a separate section from men and so cannot easily and securely access the toilets and showers;
- there may not be enough female guards to accompany women to the toilets and showers;
- the section housing women may not contain such facilities;
- women may be deterred from using facilities which fail to offer adequate privacy, where they may be watched by male guards or prisoners;
- if the water source is in a male section of the prison, women may lack safe and regular access to water, free from intimidation and abuse.

Relevant legal framework

In international armed conflicts international humanitarian law (IHL) requires the detaining power to take all sanitary measures necessary to ensure the **cleanliness** of detention facilities, and to **prevent epidemics**. In places of detention accommodating women, separate conveniences must be provided for them. Sufficient water and soap must be provided for personal hygiene and for personal laundry. In non-international conflicts, persons who have been deprived of their freedom for reasons related to the conflict must be afforded safeguards as regards hygiene to the same extent as the local civilian population.

The Standard Minimum Rules for the Treatment of Prisoners require that:

- sanitary installations in places of detention be adequate for use whenever necessary;
- bathing and showering facilities be suitable for the climate, enabling prisoners to wash as frequently as necessary for general hygiene according to the season and geographical location and as a minimum once a week;
- sanitary pans/facilities be maintained and kept scrupulously clean;
- water and toilet articles be provided to maintain personal hygiene;
- facilities be provided to enable detainees to take proper care of their hair and to shave.

2.4.2 Points to consider

Toilet facilities for women and girls should offer them **privacy** and **safety** and should be separate from those of men. Where women do not have regular access to toilets outside their cells, they must be provided with appropriate buckets and lids for use within their cells. Waste must be regularly and hygienically removed from cells and sanitary facilities to avoid the spread of disease. Facilities should also be subject to vector control and regular disinfection.

Menstruating women, pregnant women and nursing mothers need more frequent access to sanitary facilities to wash themselves and their clothing so as to preserve their health and dignity. The provision of adequate and culturally acceptable **sanitary material** and sufficient **clothing** is vital. Information regarding local

customs can be provided by the women detained, or by local ICRC staff, to those responsible for determining the sort of sanitary material to be distributed. Where detaining authorities fail to provide such sanitary protection, female detainees may resort to unsafe alternatives. (The same applies to the provision of diapers to mothers with infants.) It is important to recognize that women may be ashamed or afraid to ask for sanitary protection, since menstruation is often surrounded by social taboos and rarely discussed openly. The detaining authorities should provide this sanitary protection. In the absence of any such provision, an external organization may need to make supplies available. The ICRC has regularly done so.

Sanitary facilities must be accessible at all times to detainees in order for them to maintain adequate bodily hygiene and dignity. Access to toilets and showers must not place women at risk of intimidation or abuse from other prisoners or authorities. Particular attention should be paid to ensuring that women have adequate privacy and security when using toilet and shower/washing facilities, in particular that male guards or prisoners do not have access, or the ability to look into, the facilities when women are using them. Special arrangements must be made for women detained with their children through the provision of more frequent access to facilities and greater quantities of water and soap. In addition to providing the means to maintain personal hygiene, appropriate **cleaning materials** for the washing of clothes, bedding and cells in order to avoid the spread of diseases must be supplied.

Places of detention frequently have inadequate **sanitation systems**, which necessitates urgent work such as rehabilitating facilities, renovating parts of buildings and installing pumps. The ICRC offers technical advice provided by specialized staff to support the prison authorities to set up and maintain an appropriate water and sanitation system. The ICRC has also been involved in the rehabilitation, repair and construction of water and sanitation systems, when the authorities have been unable to undertake this work. Assistance may need to be provided in the form of **hygiene items** such as soap, clothing, sanitary pads, buckets and jerrycans for carrying and storing water. This is generally done in contexts where the authorities are not in a position to supply the necessary materials. Where disposable sanitary material is provided, thought needs to be given to whether the prison is equipped with an incinerator. In some prisons, incinerators have been supplied by the ICRC. Care must be taken to ensure that these are constructed in appropriate locations near the latrines and remote from the kitchen, water source and wards. If such assistance is being provided, it is advisable, at the same time, to look for appropriate local associations, such as NGOs or church groups, able to take over this responsibility in the long term. Recommendations can be made to help the authorities make the best possible use of the resources available.

2.4.3 Practical examples

EXAMPLE A

A thorough visit to a place of detention in a country in Asia revealed that men, women and children were all accommodated in the same prison environment, and that women suffered particularly from the lack of adequate sanitary facilities. The female detainees informed the visiting ICRC delegation that when using the toilets and showers they were vulnerable to sexual abuse from guards, the prison management and also from male detainees.

In particular, the women were afraid to use the toilets, which lacked a roof, as they could be viewed by the prison guards from the watchtower. Thus women suppressed going to the toilet until night time when they were locked in their cells. Owing to the lack of buckets they were forced to use their drinking water containers as a toilet. The repercussions for health, dignity and safety were enormous.

Interventions with the detaining authorities, urging them to improve conditions for women proved unsuccessful. However, agreement was reached for the visiting team to organize for the construction of shower and toilet facilities, complete with appropriate roofing. The new facilities were located adjacent to the women's cell, to minimize their need to move into parts of the prison occupied by men. Materials were provided for this construction and for the provision of an adequate drinking-water supply, soap and sanitary products.

Is the construction of a shower/toilet block alone a sufficient solution in the long term?

Discussions and interventions further resulted in the hiring of female guards to supervise the new facilities. Sanitation systems need not only to be installed, but also maintained and kept in good repair. Although the construction work was carried out by a third party, the authorities were called upon to progressively assume responsibility for the maintenance of these facilities and to ensure the necessary security conditions were maintained.

EXAMPLE B

Many transitory places of detention, in different contexts around the world lack the infrastructure necessary to provide acceptable conditions regarding water and sanitation. The ICRC has worked to rehabilitate, and in some cases to persuade the authorities to improve, these locations with the aim of providing acceptable sanitary conditions for both male and female detainees. Persons detained in transitory detention facilities have received soap during monthly visits, as well as essential articles of hygiene on an ad hoc basis, in proportion to the detainee's needs. Particular attention was paid to ensuring these distributions met the specific needs of women by including such items as safe and hygienic sanitary material, appropriate to the local context and culture, and additional quantities of soap.

2.5 PRESERVATION OF FAMILY LINKS

2.5.1 Overview

Family links between detainees and their relatives are often **severed** in situations of armed conflict/internal strife owing to:

- the distance separating relatives from the place of detention;
- the prevailing security situation;
- a ban imposed by the detaining authorities on contact between detainees and their families;
- the imposition of bureaucratic restrictions;
- the disruption of communication (mail and telephone) services, or the cost of these services.

Restoring and **maintaining contact** between persons deprived of their freedom and their family members is essential to minimize mental anguish and suffering, to exchange family news and to receive material assistance where possible. Visits, the majority of which consist of women visiting male relatives, should be carried out in conditions of security and dignity. The organization, frequency and duration of family visits should be adapted to the circumstances of the visitors. For example, sufficient time should be given to visitors who are unable to come regularly because they live far away. Family visits should be carried out respectfully, without unnecessary waiting, and in good conditions (namely that visitors are able to sit while waiting, are protected from the elements, have appropriate access to water and sanitary facilities, and are not exposed to harassment from the guards or other persons). Physical contact should be permitted when detainees are visited by their children.

The situation of **children detained with their mother** has many complex aspects. Clearly, incarceration is not an ideal environment in which to raise a child, yet a mother and child should not be separated simply to provide the child with a "better" environment. No attempts should be made to remove a child from detention with a parent until a thorough analysis has been made of the possible consequences of

separation between parent and child. Be aware that pressure may be exerted on women for their young children to be placed in specialized institutions or be transferred to the father's family, which may undermine the mother's parental authority and bond.

Relevant legal framework

International humanitarian law (IHL) requires that families be **accommodated as a unit** if deprived of their freedom. This right is not granted to prisoners of war. In international armed conflicts, it also requires that civilian internees may request that their children be interned with them if they fear that they will be without parental care. The right to correspond with family members is expressly granted to prisoners of war and to detained or interned persons. Parties to a conflict are required to facilitate enquiries by members of families dispersed during a conflict, with the objective of renewing contact. IHL recognizes and protects the **right to family life** through provisions allowing family members to visit detained or interned relatives and through provisions requiring the **forwarding of correspondence** when the place of detention has been changed.

In non-international armed conflicts, persons whose freedom has been restricted must be allowed to send and receive letters and cards.

Human rights law recognizes the right to **respect for family life** through a number of universal and regional instruments. The Convention on the Rights of the Child aims to ensure that children are not detained on the basis of their parents' activities, but also requires States Parties to ensure that children are not separated from their parents against their will, unless such separation is in the best interests of the child. Should separation occur, children have the right to maintain personal relations and direct contact with their parents on a regular basis, and if the parent is detained, to be provided with information as to their whereabouts.

The Standard Minimum Rules for the Treatment of Prisoners provide that prisoners must be allowed under appropriate supervision, to communicate with their family and reputable friends at regular intervals by means of correspondence and visits.

National law governs the maximum age to which a child can be accommodated with a parent in a place of detention.

2.5.2 Points to consider

Every effort should be made to ensure that family links are preserved during detention. Where no other suitable means are available, the ICRC endeavours to restore family links between persons deprived of their freedom and their relatives. The ICRC mainly proposes the use of **Red Cross messages**. These are standard forms with space for thirty lines of text. The fact that these messages must contain only personal family news and may be read and censored by the detaining authorities should be clearly explained to all persons deprived of their freedom to whom they are proposed. Red Cross messages are generally exchanged through the network of the Red Cross and Red Crescent National Societies, under the coordination of the ICRC.

Where women lack the necessary **literacy skills** to correspond with their families, they should be assisted in writing letters and reading replies. Women in detention frequently lack contact with husbands held in other prisons, thus particular attention should be paid to the exchange of family news between persons detained in different prisons and in different countries. Families should be informed immediately of a person's detention and should be allowed to visit them regularly. Particular emphasis should be placed on the quantity and quality of family visits between a mother and child.

Frequent family visits help to preserve family ties and psychological well-being, as well as to supplement the commodities provided by the detaining authorities.

Women detainees are often **more isolated** and receive **fewer family visits than men** for several reasons:

- arrest and deprivation of freedom is often regarded as more shameful for a woman than a man;
- women may be ostracized by their families and communities because of their arrest;
- security reasons may deter male relatives from visiting places of detention for fear of arrest and female relatives may fear insulting and inappropriate behaviour of detention personnel towards them;
- logistical and financial reasons relating to travel costs;

- a woman's male relatives may have been killed, displaced or disappeared as a result of the armed conflict/internal strife;
- in many societies, husbands of women deprived of their freedom find it easier to remarry and start a new life when severed from their spouse, which results in these women being abandoned;
- bringing food to a partner in prison is often seen as a "woman's duty";
- women accused of having brought "dishonour" upon their family or community, may be detained to protect them from reprisals ("honour crimes" against women).

The absence of family visits makes reintegration into society upon release much more difficult. It is thus important to pay particular attention to the relationship and level of communication women in detention have with the external world. An **evaluation** of the regularity of family visits to women deprived of their freedom must be carried out in order to assess whether women are receiving the support they need, and if not, to ascertain why this is the case and whether anything can be done to facilitate family visits or to provide basic assistance. The provision of supplies to detainees to supplement those received from the detaining authorities should only be carried out if requests to the authorities have proved fruitless.

The safety of persons deprived of their freedom and those visiting them should be ensured at all times. Particular attention should be paid to ensuring that intimidating and abusive **searches** are not made of visitors to places of detention, beyond that required to maintain prison security regulations. Searches of women and those visiting them should be carried out, where necessary, by (or in the presence of) female detention personnel and should not compromise the dignity and well-being of those being searched.

In the event of the **death** of a person deprived of freedom, the detaining authorities must **notify their next of kin** either directly or through an appropriate national or international organization, such as the ICRC and provide a death certificate to the family.

2.5.3 A practical example

In a place of detention in Africa, the ICRC helped to maintain family links through the medium of "Red Cross messages" and through family visits. When proposing the option of sending "Red Cross messages", it was clearly explained to detainees that such messages must only contain personal and family news, as they may be read and censored by the detaining authorities. The registration and follow-up of persons deprived of their freedom prevents families from losing trace of detained relatives, notably when transfers occur. Women who were identified as lacking in literacy skills were given assistance in writing to their families and reading the replies. In addition, the ICRC monitored the suitability of the detention facilities for family visits for women under interrogation or on trial.

What indirect advantage comes from facilitating family visits?

Financially assisting family visits helped to reduce the need for distribution of supplementary supplies as the families were able to supply some material assistance to the person deprived of freedom. It provided a long-term way to mitigate the hardship of prison life and the scarcity of resources, without making the detainees dependent upon a humanitarian organization, whose long-term presence was not guaranteed. Maintaining contact with family members improved the morale of those deprived of their freedom, and helped to facilitate their social reintegration upon release.

2.6 EDUCATIONAL, RECREATIONAL AND WORK PROGRAMMES

2.6.1 Overview

The option of taking part in **educational**, **recreational** and **work programmes** during detention provides a means of maintaining health and well-being, relieving the monotony of daily prison life and limiting tensions among detainees. Such programmes can also provide an opportunity to spend time in the open air, to earn some money or to increase the access of persons deprived of their freedom to desired additional items.

Relevant legal framework

In international conflicts international humanitarian law (IHL) requires detaining authorities to encourage, and provide adequate premises and equipment for, the practice of **intellectual**, **educational** and **recreational pursuits** among prisoners of war and civilian internees. In addition, they must be given opportunities for physical exercise and to spend time out of doors. With regard to **children**, the Fourth Geneva Convention requires the detaining authorities to ensure their education and to allow them to attend school, and to provide them with special playgrounds within the place of detention.

Relief shipments of provisions for prisoners of war and civilian internees may include **books** and objects of an educational or recreational character, and for prisoners of war: scientific equipment, examination papers, musical instruments, sports outfits and materials which allow them to pursue their studies and cultural activities.

IHL permits detaining authorities to use the labour of prisoners of war, and if they agree, civilian internees, taking account of their **age** and **sex**. The Third and Fourth Geneva Conventions lay down detailed rules governing the type of work that can be carried out, the conditions of work and remuneration.

In non-international armed conflicts children, whether or not they are deprived of their freedom, are entitled to receive education in accordance with the wishes of their parents. Persons deprived of their freedom for reasons related to the conflict are entitled to receive individual or collective relief, which should be taken as including books and other objects of an educational or recreational character.

If made to work, these persons are entitled to the benefit of working conditions and safeguards similar to those enjoyed by the local civilian population.

The Standard Minimum Rules for the Treatment of Prisoners provide that persons must be granted suitable **exercise in the open air**, that the young and physically fit must receive physical recreational training during periods of exercise and materials and conditions must be provided for this. The Rules also state that there must be a **library** in all places of detention, which all detainees must be encouraged to use.

There are a number of other international rules and standards that regulate the work of detainees: men, women and minors. The rules are mainly enumerated in the International Labour Organization Convention (No 105) Concerning the Abolition of Forced Labour and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty (1990). These rules emphasize that:

- work should not be of an afflictive nature, but conversely a positive element of treatment;
- it must take into account the physical and mental fitness of the detainee as determined by a doctor;
- the organization and methods of work must resemble as closely as possible those used outside the prison, particularly with respect to standards regulating the length of the working day, security, hygiene and rest;
- the work of detainees must be equitably remunerated.

2.6.2 Points to consider

Work programmes must take into consideration the **physical specificities** of women, especially pregnant women and nursing mothers. Pregnant women, nursing mothers and parents with childcare obligations should be **exempted** from mandatory work programmes and be offered recreational activities suitable to their circumstances. Women should have access to recreational, educational and work programmes that are culturally and socially appropriate and conducted in suitable conditions.

In detention, as in civilian life, the possibility to send children to school provides mothers with essential privacy and time to engage in other activities. In some

prisons, school programmes are available, although this is subject to the availability of material and of a facilitator/teacher.

A full range of educational, recreational and income-generating activities must be provided for women. Educational programmes must take into consideration that women may require basic literacy instruction in order to be able to fully benefit from them, and that literacy lessons are a necessity in order to be able to understand written prison regulations and to communicate with family members outside the prison.

Importantly, the women themselves should be able to suggest what sort of activities they prefer. It should be recognized that recreational assistance must include activities **culturally acceptable** for women. This does not, however, mean that women should be limited to knitting or handicrafts, which provide no incentive for the authorities to grant them time outdoors.

Female detainees must have the same **educational** and **training opportunities** as men. Women generally suffer from lower literacy rates than men. Where books are distributed, it should be ensured that a number of them are of a suitable level for learning, and basic literacy courses should be encouraged.

2.6.3 A practical example

In a detention context in a country in Asia, the ICRC monitored recreational activities to verify that they were acceptable in terms of safety, health, difficulty and duration, and equally available to men and women. It was observed that women lacked access to recreational and educational programmes and income-generating projects that were available to men in the same prison. Male detainees enjoyed a wider variety of programmes than women, including opportunities to engage in external work programmes. Through discussions with the authorities, the prevailing official opinion that "women had no need for books or educational material" became apparent. It was further discovered that women had no option to engage in work. This meant that the monotony of prison life was entirely unbroken, a fact which generated frustration and tension amongst the women.

In response, recreational and educational resources, such as tools and raw materials for handicrafts, books, writing equipment and games, were provided. Special attention was devoted to assessing the condition of the women. Specifically, a number of women were visited regularly with the aim of reducing their isolation through the organization of vocational and literacy training. The quality of life in the place of detention was improved thanks to the

implementation of income-generating projects made available to women as well as men. For example, the creation of vegetable gardens was encouraged in order to allow for a more varied diet, improved nutrition and more time in the open air. Detainees were allotted a small patch of land to cultivate and were regularly given vegetable seeds by the Prison Administration.

2.7 RELIGIOUS AND CULTURAL PRACTICES

2.7.1 Overview

Women, like all persons deprived of their freedom, should be able to **practise** their religion freely, have access to a place of worship and religious texts, and to observe specific cultural practices. Such religious and cultural practices may include: wearing a head covering, washing or cleansing rituals, avoidance of certain foods and observance of fasts. Detaining authorities need to pay special attention to the respect of different religious rites amongst multi-religious prison populations.

Relevant legal framework

In international armed conflicts, international humanitarian law (IHL) requires prisoners of war and civilian internees to be granted complete latitude in the exercise of their religious duties, and requires the detaining authority to provide **adequate premises** to hold religious services and to allow ministers of religion to visit them freely. Relief consignments may include **articles of a religious character**.

In non-international conflicts all persons, regardless of whether they have been deprived of their freedom, are entitled to respect for their convictions and religious practices.

The Standard Minimum Rules for the Treatment of Prisoners provide that, if there are a sufficient number of persons of the same religion, a qualified **religious representative** must be appointed to minister and allowed to hold services and visit detainees. As far as possible, detainees must be allowed to observe their religious obligations. Human rights law entitles persons deprived of their freedom to freedom of religion to the same extent as free persons.

2.7.2 Points to consider

Not being able to observe religious and cultural practices can exert a detrimental impact on an individual's sense of **identity** and **well-being**. An evaluation of the specific needs of individuals and groups of persons deprived of their freedom must be carried out in this regard. Measures may need to be taken to ensure that persons deprived of their freedom are able to observe their traditional religious and cultural

practices with dignity. At the request of detained persons, religious texts may need to be distributed.

What requirements and risks need to be considered when distributing clothing?

Clothing provided to women must comply with religious and cultural dictates, such as wearing veils or floor-length dresses, bearing in mind that certain colours may be invested with particular significance. Both detainees and detaining authorities must be asked about clothing regulations and problems as the detaining authorities may prohibit the wearing of culturally appropriate attire as a form of abuse, or owing to fears of provoking tensions between different groups of inmates. Before distributing clothing, possible negative consequences must be assessed, such as the potential trading value of clothes, which could cause problems between detainees or with guards. The provision of material for the manufacture of clothing may be a way to circumvent such problems. Furthermore, any assistance provided must be agreed with the authorities for security reasons and to ensure that the provisions can be used.

In places of detention holding persons from different religions, the detaining authorities must ensure that any tensions between them do not escalate into security problems and that there is **no discrimination** on the part of the authorities against members of different faiths.

2.7.3 A practical example

The ICRC was engaged in regular visits to detainees in a prison in the Middle East. It became apparent that a significant number of the detainees were religious and devout in observing the customs of their faith.

The ICRC coordinated its visits with prison authorities and with the detainees themselves to ensure that visits and interviews with prisoners were not conducted during the time allocated for prayer and were not held in rooms devoted to religious worship. This was particularly important for interviews with women, for whom it was highly inappropriate to discuss violence, especially of a sexual nature, in the proximity of religious icons and texts. Discussions of needs relating to menstruation, hygiene and pregnancy were also taboo subjects needing to be discussed at appropriate moments in appropriate locations, so as not to offend the cultural and religious norms of the detainee population. By taking these considerations into account, the ICRC avoided disrupting established coping mechanisms, internal systems and routines that improved the quality of life of the detainees and conferred a sense of normalcy.

2.8 PERSONAL DOCUMENTS

2.8.1 Overview

Women deprived of their freedom should be in possession of personal documents in their own names. In the chaos of armed conflict, people often lose their identity papers and have no means of proving who they are. In such circumstances, it must be made possible for them to obtain new documents. Identity papers removed upon arrest or during detention should be kept carefully by the authorities and returned to the individual at the latest upon their release.

Relevant legal framework

In international conflicts, international humanitarian law (IHL) requires prisoners of war, civilian internees and medical and religious personnel to be provided with identity cards and be permitted to retain **identification documents**. There are also rules which provide for the transmission of death certificates or authenticated lists of the dead and of wills, powers of attorney and other **legal documents** relating to persons in the power of the adverse party.

2.8.2 Points to consider

Where children are born in a place of detention they should be duly registered by the authorities, omitting reference to the fact that the birthplace was a detention facility.

Upon release, the detaining authorities should give the individual a document which mentions that s/he has been released, in order to prove, if necessary, that s/he has not escaped from detention. In addition, the authorities should provide a document certifying the period of time that the person has spent in detention. This certificate can help the individual concerned to explain to any authority or administration her/his whereabouts during that period of time.

When the authorities do not provide these documents, the ICRC can, upon request from the concerned person, and for strictly humanitarian purposes, issue an **attestation** on the basis of its own official records.

2.8.3 A practical example

In a country in Asia, women who had been released from detention and were making their way back to their homes across international borders, were frequently being re-arrested or subjected to accusations of having escaped from detention.

The ICRC provided an attestation to these women to enable them to prove that they had been released from a place of detention. During interviews with these women, they had been informed that upon their liberation they could approach the ICRC delegation to obtain this assistance.

2.9 JUDICIAL GUARANTEES

2.9.1 Overview

Judicial guarantees or **fair-trial rights** are a set of principles and rules that aim to protect the life, physical and psychological integrity of individuals who are deprived of their freedom. They apply from the moment of deprivation of freedom until the moment of release.

Particular attention must be paid to ensuring that women understand their right to have access to a court, to be assisted by a legal counsel and to be duly informed about legal/court procedures. Women may be particularly disadvantaged in obtaining a fair trial if they are **illiterate**, **indigent** or their social status makes access to legal assistance virtually impossible. Women may also be disadvantaged by a lack of familiarity with the legal system. As the illiteracy rate is often higher among women, and women's general social status tends to be more fragile when they are detained than that of men, their situation requires particular attention.

Women detained, deemed to have contravened socio-cultural norms related to **"honour"**, should be considered as a special category of person deprived of their freedom. Being detained for those reasons, or in some cases being detained for their own protection against reprisals from their family or community ("honour crimes" against women), may have roots in the prevailing traditions and situation of the country. Such women are often in an extremely vulnerable situation having been abandoned by their families, and may be subject to particular intimidation or ill-treatment by the authorities. These women may never have the possibility of being released. Moreover, their detention can be particularly traumatic and abusive. As a consequence, interviews alone with a male member of a detention visiting team are inappropriate; they should have the opportunity of being visited by a woman.

Relevant legal framework

International humanitarian law (IHL) lays down important judicial guarantees for persons deprived of their freedom in relation to international armed conflicts, whether they be prisoners of war accused of violating the laws, regulations or orders of the detaining power, interned civilians or persons detained for penal offences in an occupied territory. These guarantees are supplemented by detailed rules on "Fundamental Guarantees" in Article 75 of Additional Protocol I, which

apply to civilians in the power of a party to the conflict who do not benefit from more favourable treatment and are affected by the armed conflict or occupation.

The judicial guarantees provided by IHL in international armed conflicts include:

- the prohibition of retroactive punishment;
- the right to be promptly informed of the offence with which one is charged;
- the right to be judged before an independent and impartial court;
- the principle of *nullum crimen sine lege* (no crime without law);
- the presumption of innocence;
- the right not to be tried *in absentia*;
- the privilege against self-incrimination or coerced confession;
- the principle of *non bis in idem* (prohibition of double jeopardy);
- the right to a defence (lawyer, interpreter, witnesses);
- if convicted; the right to an appeal;
- the entitlement of civilian internees, interned for imperative security reasons, to a periodic review of the internment and the possibility of an appeal.

In addition to these judicial guarantees, which apply equally to men and women, additional provisions specifying that women and mothers of **dependent infants** who are arrested, detained or interned for reasons related to the armed conflict must have their cases considered with the **utmost priority**. To the maximum extent feasible, parties to the armed conflict shall endeavour to avoid the pronouncement of the **death penalty** on pregnant women or mothers having dependent infants, for an offence related to the armed conflict. The death penalty for such offences shall not be executed on such women. The Third Geneva Convention specifically provides that a woman prisoner of war shall not be sentenced to **punishment** more severe, nor treated more severely while undergoing punishment, than a woman member of the armed forces of the Detaining Power dealt with for a similar offence.

IHL also lays down judicial guarantees applicable in non-international armed conflicts. Article 3 common to the Geneva Conventions prohibits the passing of sentences and the carrying out of executions without previous judgement rendered by a properly constituted court, affording all the judicial guarantees which are recognized as indispensable. Additional Protocol II develops this rule by laying down safeguards to be applied in the prosecution and punishment of persons charged with criminal offences related to a non-international armed conflict. It also specifically prohibits the execution of the death penalty on pregnant women or mothers of young children.

Human rights law also contains a considerable number of rules pertaining to the **right to a fair trial**, in instruments such as the International Covenant on Civil and Political Rights and the Convention on the Elimination of All Forms of Discrimination Against Women. Relevant human rights principles may also be found in non-treaty standards, such as the Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, the Standard Minimum Rules for the Treatment of Prisoners and the Basic Principles on the Role of Lawyers.

The interplay between the provisions of IHL and human rights law is important. While the former was designed for application in the exceptional circumstance of armed conflict and can therefore never be derogated from, human rights law can be used to **supplement** or elaborate fair trial standards contained in IHL where necessary, with a view to ensuring the widest possible protection of persons deprived of their freedom in situations of armed conflict.

2.9.2 Points to consider

Judicial guarantees enshrined in international and national law must be fully respected and applied by parties to an armed conflict as well as in the case of internal strife. The ICRC endeavours to **monitor** the application of legal safeguards in relation to the arrest, detention and sentencing of persons deprived of their freedom in connection with armed conflict and internal strife. It **promotes respect for judicial guarantees** by the relevant authorities and brings individual cases to their attention. It places particular emphasis upon the suffering caused by the lack of implementation of fair-trial rights.

2.9.3 Practical examples

EXAMPLE A

Particular attention was paid to the most vulnerable detainees, namely women and minors, in a detention context in a country in the Middle East. Women detainees were found to lack any form of legal representation or advice. The authorities demonstrated little interest in improving their situation, citing in justification of their position the lack of means and the inevitable hardships of life as a detainee.

The ICRC followed the legal cases of women and minors on a regular basis. A systematic dialogue was initiated with the detaining authorities and the justice system to hasten the progress of their legal files. The case of persons deprived of their freedom whose judicial guarantees, enshrined in domestic law, were not respected were pointed out to the competent authorities. Those who were particularly vulnerable became the subject of a written intervention.

In one particular instance, a woman expressed anxiety about delays in her hearing. She explained that she was meant to attend court every three weeks, but nothing had happened for a long time. In her case, transportation was a key obstacle. Buses were provided for detainees, but the system was unreliable and sometimes the bus was so late that the court was already closed when they arrived. Furthermore, the transfer to the courts involved male and female detainees travelling on the same bus. According to prison rules there had to be one female guard per three female detainees, to supervise their interaction with the men. When the staff were not available, the women could not travel. The authorities were alerted to the particular problem of transportation and its side-effect of eroding the right to a fair and timely trial for many of the women.

In addition, the prison register was checked regularly to ascertain the date of liberation of individuals. The application of legal safeguards was monitored from the moment of arrest, during the period of detention, through to the outcome of the final appeal. Continuing efforts were made to promote respect for judicial guarantees by the relevant authorities, by bringing particular cases to their attention, and placing emphasis upon the suffering caused by the lack of implementation of basic judicial guarantees.

EXAMPLE B

In a detention environment in one country in the Middle East, the ICRC discovered that a significant number of women had not been released, despite having reached the date recorded as marking the end of their sentence.

The ICRC made inquiries with the authorities to ascertain why the fundamental judicial guarantee of being released upon the expiration of one's sentence had not been upheld in their case. It was revealed that these women could not be liberated, as they had no male relative willing to collect them and accompany them out of the prison.

Initially, the ICRC proposed to help these women contact their family by means of a "Red Cross message", in order to find a male relative to collect them. However, the women expressed a reluctance to do so. The problem was not simply the cultural prohibition on women walking in the streets unaccompanied by a man, but also the fact that these women had been detained for so-called "honour crimes" or "moral offences". These "crimes" are usually addressed within the family, however, in the case of these women police had intervened mainly as a security measure in order to protect them from acts of revenge and violence at the hands of their own relatives or community.

A further reason for male relatives not coming to collect women was due to the fact that in this cultural context, imprisonment deeply affects the honour of a woman, and by extension, of her family. Owing to the frequent rumours and reports of prostitution in prisons, imprisonment causes stigmatization and hampers the ability of women to be reintegrated into society upon their liberation. When liberation occurs, it is standard practice for a woman to be handed over to a male relative who will bring her back to her family. If her family rejects the woman, she may simply remain in prison, left to social oblivion. Otherwise, she may be eventually released but, lacking assistance and shelter, will often once again find herself in prison.

The ICRC developed programmes aimed to ease the social reintegration of such women and to alleviate their isolation. Education and training programmes (literacy and sewing) were initiated by the ICRC to equip these women with skills they could use after liberation from prison. The income generated through the sale of sewing products, under the supervision of Red Crescent volunteers, contributed to improving their living conditions. The ICRC organized an exhibition to display the handicraft products produced in prison. In addition, an

NGO initiated a programme to run a shelter for isolated women who could not return to their families.

This revealed that the infringement of a basic judicial guarantee was connected to deeper problems specific to the expectations and traditions governing the lives of women in this cultural context.

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ANNEX TO THE GUIDANCE DOCUMENT

GENERAL AND SPECIFIC PROTECTION OF WOMEN UNDER INTERNATIONAL HUMANITARIAN LAW

This Annex includes both the general and specific protection afforded to women under international humanitarian law, meaning that some of the legal provisions apply equally to men and women without adverse distinction, while others apply exclusively to women. Although this table only refers to international humanitarian law, other bodies of law, such as human rights law, refugee law and domestic law also protect women in situations of armed conflict.

KEY

GC = Geneva Convention

AP = Additional Protocol

ICC = International Criminal Court

PART I: CIVILIAN POPULATION		
ISSUE	**PROVISIONS**	**CONTENT**
PERSONAL SAFETY	GC I, Art. 12; GC II, Art. 12	The wounded and sick, and members of the armed forces who are at sea and who are wounded, sick or shipwrecked, must be respected and protected in all circumstances. They shall be **treated humanely without any adverse distinction** founded on sex, race, nationality, religion, political opinions, or any similar criteria. Any attempts upon their lives, or violence to their persons, are strictly prohibited; in particular, they must not be **murdered** or **exterminated**, subjected to **torture** or to **biological experiments**.
	GC I, Art. 12(4); GC II, Art. 12(4)	**Women** must be treated with all consideration due to their sex.
	GC I, Art. 15(1); GC II, Art. 18(1)	Parties to the conflict must take all possible measures to search for and collect the wounded, sick and shipwrecked to protect them against pillage and **ill-treatment**, to ensure their adequate care.
	GC IV, Arts.14; 15	Parties to a conflict may establish **safety or neutralized zones** in an attempt to shield the civilian population, including in particular the wounded, sick, aged, children, **expectant mothers** and **mothers of children under seven** from the effects of war.
	GC IV, Art. 27	**Women** must be especially protected against any attack on their **honour**, in particular against **rape**, **enforced prostitution**, or any other form of **indecent assault**.

PERSONAL SAFETY	GC IV, Art. 31	Prohibition of the use of physical or moral **coercion** to obtain information from protected persons.
	GC IV, Art. 32	Prohibition of taking any measure to cause the **suffering** or **extermination** of protected persons, including murder, torture, corporal punishment, mutilation, medical or scientific experiments not required by medical treatment and other measures of **brutality** applied by civilian or military agents.
	GC IV, Art. 33	Prohibition of **reprisals** against protected persons, **pillage, collective penalties** and all measures of **intimidation** or **terrorism**.
	GC IV, Art. 34	Prohibition of the taking of **hostages**.
	AP I, Art. 48	Parties to an armed conflict must **distinguish** between combatants and civilians and civilian objects and direct attacks only against military objectives.
	AP I, Art. 51(1)	Civilians and the civilian population must enjoy **general protection** against dangers arising from military operations.
	AP I, Art. 51(2)	Prohibition of acts or threats of violence whose primary purpose is to spread **terror** among the civilian population.
	AP I, Art. 51(4)	Prohibition of **indiscriminate attacks** of a nature to strike military and civilians or civilian objects without distinction or which may be expected to cause incidental loss of civilian life, injury to civilians or damage to civilian objects

PERSONAL SAFETY		which would be excessive in relation to the concrete and direct military advantage expected.
	AP I, Art. 51(6)	Prohibition of attacks against civilian population or civilians by way of **reprisals**.
	AP I, Art. 51(7)	Prohibition of using the presence or movements of the civilian population or individual civilians to **shield** military objectives from attacks.
	AP I, Art. 54	Prohibition of **starvation** of civilians as a method of warfare and of the destruction of objects indispensable to the survival of the civilian population.
	AP I, Art. 56	Prohibition of carrying out attacks on works and installations that may cause the release of **dangerous forces** and severe losses among the civilian population.
	AP I, Art. 57	Parties to an armed conflict must take constant care in the conduct of military operations to **spare** the civilian population, civilians and civilian objects.
	AP I, Art. 75	**Humane treatment** must be granted as a minimum to all persons in the hands of a party to an international armed conflict. The following acts are prohibited: violence to the life, health, or physical or mental well-being of persons, in particular murder; torture of all kinds, whether physical or mental; corporal punishment; mutilation; outrages upon personal dignity, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault; the taking of hostages; collective punishments; and threats to commit any of the foregoing acts.

PERSONAL SAFETY	AP I, Art. 76	**Women** must be protected in particular against **rape**, **forced prostitution** and any other form of **indecent assault**. To the maximum extent feasible, parties to a conflict must endeavour to avoid the pronouncement of the **death penalty** on pregnant women or mothers having dependent infants for an offence related to the armed conflict. The death penalty for such offences must not be executed on such women.
	GCs, Common Art. 3	Parties to a **non-international armed conflict** must respect the following minimum standards: persons taking no active part in hostilities, must in all circumstances be **treated humanely**, without any adverse distinction founded on race, colour, religion or faith, sex, birth or wealth, or similar criteria. The following acts are prohibited: violence to life and person, in particular murder, mutilation, cruel treatment and torture, taking of hostages and outrages upon personal dignity, in particular humiliating and degrading treatment.
	AP II, Art. 4(1)	In **non-international armed conflicts** all persons who do not take part or who have ceased to take part in hostilities, whether or not their liberty has been restricted, are entitled to respect for their person and honour. They must in all circumstances be **treated humanely**, without any adverse distinction.
	AP II, Art. 4(2)	Prohibition of violence to the life, health and physical or mental well-being of persons in **non-international armed conflicts**, in particular **murder** as well as cruel treatment such as **torture**, mutilation or any form of corporal punishment; collective punishments; taking of hostages; acts of terrorism; outrages upon personal dignity, in particular humiliating and degrading treatment, rape,

PERSONAL SAFETY		enforced prostitution and any form of indecent assault; slavery and the slave trade in all their forms; pillage and threats to commit any of the foregoing acts.
	AP II, Art. 13	Prohibition of **attacking civilians** in **non-international armed conflicts** and prohibition of acts of violence whose primary purpose is to spread terror among civilian population.
	AP II, Art. 14	Prohibition of **starvation** of the civilian population as a means of warfare in **non-international armed conflicts**.
	AP II, Art. 15	Prohibition of attacking works or installations that may cause the release of **dangerous forces** and severe losses among the civilian population, in **non-international armed conflicts**.
	Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, 1997, Art. 5(2)	Prohibition of the deployment of anti-personnel **landmines** and duty to identify areas in which anti-personnel mines are known or suspected to be located and to fence off such areas to exclude civilians until the mines have been destroyed.
	GC I, Art. 50; GC II, Art. 51; GC III, Art. 130; GC IV, Art. 147	Wilful killing, torture or inhuman treatment, including biological experiments, wilfully causing great suffering or serious injury to body or health and taking of hostages are **grave breaches**.

PERSONAL SAFETY	AP I, Art. 85(3) (a)-(e)	Making the civilian population or individual civilians the object of attack; launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects; launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilian or damage to civilian objects; making non-defended localities and demilitarized zones the object of attack and making a person the object of attack in the knowledge that s/he is *hors de combat* are **grave breaches**.
	ICC Statute, Art. 8(2)(a)(i); (ii); (iii); (viii); Art. 8(2)(b)(i); (iv); (x); (xxv)	Wilful killing; torture or inhuman treatment, including biological experiments; wilfully causing great suffering, or serious injury to body and health; taking of hostages; intentionally directing attacks against the civilian population or individual civilians not taking direct part in hostilities; intentionally launching an attack in the knowledge it will cause incidental loss of life or injury to civilians which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated; and intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival are **war crimes in international armed conflicts**.
	ICC Statute, Art. 8(2)(c)(i); (iii); Art. 8(2)(e)(I); (xi)	Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture; the taking of hostages; intentionally directing attacks against the civilian population or against civilians not taking direct part in hostilities; subjecting persons to physical mutilation or to medical or scientific experiments of any kind, not justified by the medical treatment of the person

		concerned and which cause death or seriously endanger the health of the person concerned are **war crimes in non-international armed conflicts.**
SEXUAL VIOLENCE	GC IV, Art. 27	**Women** must be especially protected against any attack on their **honour**, in particular against **rape**, **enforced prostitution**, or any form of indecent **assault**.
	AP I, Arts.75(2)(a); (b)	Prohibition of violence to the life, health or physical or mental well-being of persons, in particular torture of all kinds, whether physical or mental and prohibition of outrages upon personal **dignity**, in particular humiliating and degrading treatment, enforced prostitution and any form of indecent assault or threats thereof.
	AP I, Art. 76	**Women** must be the object of **special respect** and must be protected in particular against rape, forced prostitution and any other form of indecent assault.
	GCs, Common Art. 3	Prohibition of outrages upon personal **dignity**, in particular humiliating and degrading treatment in **non-international armed conflicts**.
	AP II, Arts.4(2)(a); (e)	The following acts against persons *hors de combat* are prohibited in **non-international armed conflicts**: violence to life, health and physical or mental well-being, in particular cruel treatment such as torture; outrages upon personal **dignity**, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault; and slavery.

	ICC Statute, Arts. 8(2)(b)(xxi); (xxii); 8(2)(c)(ii); 8(2)(e)(vi)	Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of **sexual violence** as well as outrages upon personal dignity, in particular humiliating and degrading treatment, are **war crimes** in both international and non-international armed conflicts.
DISPLACE-MENT	GC IV, Art. 45	Prohibition of the **transfer** of aliens in the power of a party to the conflict to a third State not party to GC IV.
	GC IV, Art. 45(4)	Prohibition of transferring aliens in the power of a party to the conflict to a country where s/he has reason to fear **persecution** (the principle of *non-refoulement*).
	GC IV, Art. 49(1),(2)	In situations of occupation, prohibition of **individual or mass forcible transfers**, both within the occupied territory and beyond its borders, except if this is necessary either for the security of the civilian population or for imperative military reasons ("evacuations").
	GC IV, Art. 49(3)	An Occupying Power undertaking evacuations must ensure, to the greatest practicable extent, that proper **accommodation** is provided to receive the protected persons, that removals are effected in **satisfactory conditions** of hygiene, health, safety and nutrition, and that members of the same **family are not separated.**
	GC IV, Art. 49	Evacuated persons must be **transferred back** to their homes as soon as hostilities in the area in question have ceased.

DISPLACE-MENT	AP II, Art. 17	Prohibition of **forced displacement** of the civilian population both within a country and across a border in non-international armed conflicts unless the security of the civilians or imperative military reasons so demand.
	AP II, Art. 17	Basic conditions for orderly displacements in **non-international armed conflicts** (satisfactory conditions of shelter, hygiene, health, safety and nutrition).
	GC IV, Art. 147	Unlawful **deportation** or **transfer** of protected persons is a grave breach.
	AP I, Art. 85 (4) (a)	The transfer by the Occupying Power of its own civilian population into the territory it occupies, or the **deportation** or **transfer** of all or parts of the population of the occupied territory within or outside this territory is a **grave breach**.
	ICC Statute, Art. 8(2)(a)(vii); (e) (viii)	Unlawful transfers or deportations of protected persons are **war crimes** in both international and non-international armed conflicts.
FREEDOM OF MOVEMENT	GC IV, Arts.35; 38(4); 48	Right of aliens to **leave** the territory of a party to an armed conflict or occupied territory, and move away from an area particularly exposed to the dangers of war.
FOOD AND ESSENTIAL HOUSEHOLD ITEMS	GC IV, Art. 23	States Parties must allow the **free passage** of certain goods intended for specific categories of the civilian population belonging to another State Party, even if the latter is its adversary in the conflict.

FOOD AND ESSENTIAL HOUSEHOLD ITEMS	GC IV, Art. 55	An Occupying Power must provide **food** and **medical supplies** for the population and should bring the necessary foodstuffs, medical stores and other articles into the occupied territory if the resources of that territory are inadequate.
	GC IV, Arts. 59; 60	While an Occupying Power retains primary responsibility for meeting the needs of the population of the occupied territory, if the whole or a part of the population is inadequately supplied it must agree to **relief schemes** and must facilitate them by all means at its disposal.
	AP I, Arts. 35(3); 55(1)	Prohibition of means and methods of warfare intended or expected to cause widespread, long-term or severe damage to the natural **environment** and thereby prejudice the health or survival of the population.
	AP I, Art. 52(1)	**Attacks** may not be directed against **civilian objects** (such as food supplies).
	AP I, Art. 54(1)	Prohibition of **starvation** of the civilian population as a method of warfare.
	AP I, Art. 54(2)	Prohibition of attacking, destroying, removing or rendering useless **objects indispensable** to the survival of the civilian population, including foodstuffs, agricultural areas for the production of foodstuffs, crops and livestock.
	AP I, Art. 54(4)	Objects indispensable to the survival of the civilian population must not be the object of **reprisals**.

FOOD AND ESSENTIAL HOUSEHOLD ITEMS	AP I, Art. 70(1)	In situations other than occupation, where the civilian population of a party to a conflict is not adequately provided with supplies, humanitarian and impartial **relief actions** must be undertaken, and **priority** must be given to children, **expectant mothers, maternity cases** and **nursing mothers.**
	AP I, Art. 70(2)	Parties to a conflict must allow and facilitate rapid, unimpeded passage for all **relief consignments**, equipment and personnel, even if such assistance is intended for the civilian population of the adverse party.
	AP I, Arts. 70(2); (3)(c)	Parties to a conflict must not in any manner **divert** relief consignments from the purpose for which they are intended nor **delay** their forwarding, except in cases of urgent necessity in the interest of the civilian population concerned.
	AP I, Art. 71	**Personnel** participating in relief actions must be **respected** and **protected**.
	AP II, Art. 14	Prohibition of **starvation** of the civilian population as a method of warfare in **non-international armed conflicts** and of attacking, destroying, removing or rendering useless objects indispensable to its survival.
	AP II, Art. 18(1)	In non-international armed conflicts, **relief societies** may offer their services.
	AP II, Art. 18(2)	If the civilian population is suffering undue hardship owing to a lack of **supplies** essential for its survival, such as foodstuffs and medical supplies, **relief actions** of an exclusively humanitarian and impartial nature, conducted without any adverse distinction, must be undertaken, subject to the consent of the State concerned.

FOOD AND ESSENTIAL HOUSEHOLD ITEMS	ICC Statute, Arts. 8(2) (b)(iii); 8(2)(e)(ii)	Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance mission is a **war crime** in both international and non-international armed conflicts.
	ICC Statute, Arts. 8(2)(b) (ii); (iv); (xxv)	Intentionally directing attacks against civilian objects; launching an attack intended or expected to cause damage to the natural **environment** and intentionally using the **starvation** of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding **relief supplies**, are **war crimes** in international armed conflicts.
WATER	AP I, Art. 54(2); AP II, Art. 14	Prohibition of attacks against **objects indispensable** to the survival of the civilian population including attacks against drinking water installations, supplies and irrigation works in international and non-international armed conflicts.
SOURCES OF LIVELIHOOD	GC IV, Art. 33	Prohibition of **pillage** (taking of property belonging to private individuals).
	GC IV, Art. 39	Protected persons who, as a result of the war, have lost their gainful employment, must be granted the opportunity to find paid **employment**. Subject to security considerations, such opportunity must be equal to that of nationals.
	GC IV, Art. 52	An Occupying Power is prohibited from taking measures aimed at creating **unemployment** or at restricting opportunities offered to workers in an occupied territory, to induce them to work for the Occupying Power.

SOURCES OF LIVELIHOOD	AP I, Art. 52(1)	**Civilian objects** shall not be the object of attack or of reprisals.
	AP I, Art. 54(2)	Prohibition of destruction of objects indispensable to the survival of the civilian population such as **agricultural areas** for the production of foodstuffs, crops, livestock, drinking water installations or supplies, and irrigation works.
	AP II, Arts. 4(2)(g); 14	Prohibition of pillage and destruction of objects necessary to the survival of the civilian population in **non-international armed conflict**.
	ICC Statute, Arts. 8(2)(b)(xvi); (xiii); 8(2)(e)(v); (xii)	Pillage and destroying or seizing the property of an adversary unless such destruction or seizure is imperatively demanded by the necessities of the conflict is a **war crime** in both international and non-international armed conflicts.
SHELTER	GC IV, Art. 14	Parties to a conflict may conclude agreements to establish and recognize **"safety zones and localities"** to protect from the effect of hostilities wounded, sick and aged persons, children under fifteen, **expectant mothers** and **mothers** of children under the age of seven.
	GC IV, Art. 15	**Neutralized zones** may be established in conflict areas, intended to shelter from the effects of war civilian persons who take no part in the hostilities and perform no work of a military character.
	GC IV, Art. 23	States must permit the free passage of all consignments of essential **clothing** intended for children under fifteen, **expectant mothers** and **maternity cases**.

SHELTER	GC IV, Art. 33	Prohibition of **pillage** and **reprisals** against the property of protected persons.
	GC IV, Art. 49	In situations of occupation, the Occupying Power must ensure, to the greatest practicable extent, that proper **accommodation** is provided for receiving transferred or evacuated protected persons.
	GC IV, Art. 53	In situations of occupation, any destruction of real or personal **property** is prohibited unless rendered absolutely necessary by military operations.
	GC IV, Art. 59	**Clothing** forms part of relief actions for the civilian population which an Occupying Power must allow.
	AP I, Art. 52(1)	Civilian objects must not be the object of **attacks** or **reprisals**.
	AP I, Art. 52(2)	Civilian **dwellings** and **shelters** are protected unless used to make an effective contribution to military action, and their destruction in the circumstances prevailing at the time offers a definite military advantage.
	AP I, Arts. 61(a)(iii); (x)	Civil defence activities to protect the civilian population from danger expressly include the management of **shelters** and the provision of **emergency accommodation** and supplies.
	AP I, Arts. 62; 63	Parties to a conflict must **respect** and **protect** civil defence organizations and their **personnel** and allow them to perform their tasks.

SHELTER	AP I, Art. 62(3)	Buildings and material used for civil defence purposes and shelters provided for the civilian population are **civilian objects** and must **not** be **destroyed** or **diverted** from their proper use except by the party to whom they belong.
	AP I, Art. 69	In situations of occupation, the Occupying Power must ensure, to the fullest extent of the means available to it, and without adverse distinction, the provision, *inter alia*, of **bedding**, means of **shelter** and other **supplies** essential to the survival of the civilian population of the occupied territory.
	AP II, Art. 4(2)(g)	Prohibition of **pillage** and **collective punishment**, such as the destruction of dwellings in **non-international armed conflicts**.
	AP II, Art. 17	In **non-international armed conflicts, during evacuations**, all possible measures must be taken in order that the civilian population may be received under satisfactory conditions of shelter, hygiene, health and nutrition.
	GC I, Art. 50, GC II, Art. 51; GC IV, Art. 147	Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly are **grave breaches**.
	AP I, Art. 85(3)(b)	Launching an indiscriminate attack affecting the civilian population or civilian objects in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects is a **grave breach**.
	ICC Statute, Arts. 8(2)(a)(iv); 8(2)(b)(xiii); 8(2)(e)(v); (xii)	Wanton **destruction** or **seizure** of the enemy's property, unless imperatively demanded by the necessities of war, and **pillaging** a town or place are **war crimes** in both international and non-international armed conflicts.

SHELTER	ICC Statute, Arts. 8(2)(b)(ii); (iv); (v)	Intentionally directing **attacks** against **civilian objects**, intentionally launching an attack in the knowledge it will cause damage to civilian objects, which would be **excessive** in relation to the concrete and direct overall military advantage anticipated, and attacking towns, villages, dwellings or buildings which are **undefended** and which are not military objectives are **war crimes** in international armed conflicts.
HEALTH	GC I, Art. 12; GC II, Art. 12	The wounded, sick or shipwrecked must not wilfully be left without **medical assistance** and care, nor shall conditions exposing them to contagion or infection be created. Only urgent medical reasons may authorize priority in the order of treatment to be administered.
	GC I, Art. 15(3); GC II, Art. 18(2)	**Local arrangements** may be concluded between parties to a conflict for the passage of medical and religious personnel to besieged or encircled areas.
	GC I, Art. 19(1); GC II, Art. 37	Fixed establishments and mobile medical units of the **medical service** may in no circumstances be attacked, but must at all times be respected and protected by parties to a conflict. Should they fall into the hands of the adverse party, their personnel must be free to **pursue their duties**, as long as the capturing power has not itself ensured the necessary care of the wounded and sick found in such establishments and units. The medical and hospital personnel in the hands of the enemy may **continue to carry out their duties** as long as this is necessary for the care of the wounded and sick.

HEALTH	GC I, Art. 23	In time of peace, States and, after the outbreak of hostilities, parties to a conflict, may establish in their territory and, if the need arises, in occupied areas, **hospital zones and localities** so organized as to protect the wounded and sick from the effects of war, as well as the personnel entrusted with the organization and administration of these zones and localities, and with the care of these persons.
	GC I, Art. 24; GC II, Art. 36	**Medical personnel** exclusively engaged in the search for, or the collection, transport or treatment of the wounded and sick, or in the prevention of disease, staff exclusively engaged in the administration of medical units and establishments, as well as chaplains attached to the armed forces and medical and hospital personnel of hospital ships and their crews must be **respected** and **protected** in all circumstances.
	GC I, Art. 33	**Medical material, buildings and stores** must not be destroyed and must only be used for medical purposes.
	GC I, Art. 35	**Transports** of wounded and sick or of medical equipment shall be respected and protected in the same way as mobile medical units.
	GC I, Arts. 38-44; 53-54; GC II, Arts. 41-45; GC IV, Arts. 18-22; AP I, Arts. 8(l); 18(4); 38	The distinctive red cross/red crescent **emblem** must be displayed by medical and religious personnel on medical units and transports. The emblem must be respected at all times and must not be used improperly.
	GC II, Art. 22	**Military hospital ships** may in no circumstances be attacked or captured, but must at all times be respected and protected.

HEALTH	GC II, Art. 28	Should fighting occur on board a warship, the **sick-bays** shall be respected and spared as far as possible.
	GC IV, Art. 16	The **wounded** and **sick**, as well as the **infirm** and **expectant mothers**, must be the object of particular protection and respect.
	GC IV, Art. 16	Parties to a conflict must facilitate the steps taken to search for the **wounded** and to protect them from ill-treatment.
	GC IV, Art. 17	Belligerents must endeavour to conclude agreements for the **removal** from **besieged** or **encircled areas** of the wounded, sick, infirm, elderly, children and maternity cases, and for the passage of medical personnel and equipment to such areas.
	GC IV, Art. 18	**Civilian hospitals** organized to provide care for the wounded and sick, the infirm and maternity cases shall be **protected** from attack.
	GC IV, Art. 19	The protection to which civilian hospitals are entitled shall **not cease** unless they are used to commit acts harmful to the enemy.
	GC IV, Arts. 20-22	**Personnel** engaged exclusively in the operation of civilian hospitals and medical transports must be **respected** and **protected**.
	GC IV, Art. 23	All States must allow the **free passage** of consignments of **medical** and **hospital stores** intended for civilians in another State, even though it may be their opponent in a conflict.

HEALTH	GC IV, Art. 32; AP I, Art. 11	Prohibition of any medical procedure not indicated by the health of the person concerned.
	GC IV, Art. 50	In situations of occupation, the Occupying Power may not hinder the application of any **preferential measures** with regard to food, medical care and protection against the effects of war which may have been adopted prior to the occupation in favour of children under fifteen, **expectant mothers** and **mothers** of children under seven years of age.
	GC IV, Art. 55	In situations of occupation, the Occupying Power may only requisition **medical supplies** available in occupied territories if the requirements of the civilian population have been taken into account.
	GC IV, Art. 55; AP I, Art. 14	In situations of occupation, to the fullest extent of the means available to it, the Occupying Power must provide the population with **medical supplies** and should bring in the necessary medical stores and other articles if the resources of the occupied territory are insufficient.
	GC IV, Art. 56	In situations of occupation, to the fullest extent of the means available to it, the Occupying Power must **ensure** and **maintain medical** and **hospital establishments** and **services**, public health and hygiene in the occupied territory, particularly regarding the adoption of preventive measures to combat the spread of contagious diseases. When adopting or implementing policies relating to health and hygiene, the Occupying Power must take into account the moral and ethical susceptibilities of the population.

HEALTH	GC IV, Art. 59; AP I, Art. 70	Provisions relating to **relief actions** all include medical supplies among the relief consignments.
	AP I, Art. 8(a)	The definition of wounded and sick expressly includes **maternity cases**, new-born babies and other persons who may be in immediate need of assistance or care, such as **expectant mothers**, and who refrain from any act of hostility.
	AP I, Art. 10	All **wounded** and **sick**, whichever party they belong to, must be respected, protected and treated humanely, and are entitled to receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition, without distinction on any grounds other than medical ones.
	AP I, Arts. 16; 17	No one can be penalized or punished for having provided **medical assistance**, in particular for the benefit of someone belonging to the adverse party. Such protection applies to both medical personnel and members of the civilian population who provide medical assistance.
	AP I, Art. 70(1)	In the distribution of relief consignments, including medical items, **priority** should be given to children, **expectant mothers, maternity cases** and **nursing mothers**.
	GCs, Common Art. 3	The **wounded** and **sick** must be collected and cared for in **non-international armed conflicts**.

HEALTH	AP II, Art. 7	In **non-international armed conflicts**, the wounded and sick must receive, to the fullest extent practicable and with the least possible delay, the medical care and attention required by their condition.
	AP I, Art. 85(3)(f)	The perfidious use of the distinctive red cross/red crescent emblem is a **grave breach**.
	ICC Statute, Arts. 8(2)(b)(ix); (xxiv);8(2)(e)(iv)	Intentionally directing **attacks** against **hospitals** and places where the wounded and sick are collected, provided they are not military objects, and against buildings, material, medical units and transport and personnel using the distinctive emblems of the GCs in conformity with international law are **war crimes** both in international and non-international armed conflicts.
	ICC Statute, Arts. 8(2)(b)(x); 8(2)(e)(xi)	Subjecting persons to physical mutilation or to medical or scientific experiments of any kind that are not justified by the medical treatment of the persons concerned nor carried out in their interest, and causing death or seriously endangering health are **war crimes** both in international and non-international armed conflicts.
HYGIENE AND SANITATION		See "WATER" and "HEALTH" in Part I of this Annex.
PRESERVATION OF FAMILY LINKS	GC I, Art. 16	Parties to a conflict must prepare and forward to each other through the National Information Bureau death certificates or duly **authenticated lists of dead**, together with wills or other documents of importance to the next of kin.

PRESERVATION OF FAMILY LINKS	GC I, Art. 17	Prior to burial or cremation of the dead, parties to a conflict must carry out a careful **examination** with a view to **establishing identity**.
	GC III, Arts. 70-71; GC IV, Arts. 106-107	Prisoners of war and detained or interned civilians may **correspond** with family members.
	GC III, Art. 122; GC IV, Arts. 136-141	Parties to a conflict must establish, upon the outbreak of hostilities, a **National Information Bureau**, responsible for receiving and transmitting information concerning prisoners of war or protected persons in the party's power.
	GC III, Art. 123; GC IV, Art. 140	The **Central Information Agency** must collect and transmit information on each person's full identity and regularly updated details of their place of detention and any transfer, release, admittance to hospital or death. The Agency collects and transmits information provided by the National Information Bureaux.
	GC IV, Art. 25	All persons in the territory of a party to an armed conflict, or in a territory occupied by it, must be able to give **news** of a strictly personal nature to members of their families, wherever they may be, and to receive news from them.
	GC IV, Art. 26; AP I, Art. 74	Parties to an armed conflict must **facilitate enquiries** by members of families dispersed during conflict, with the objective of renewing contact, and must encourage the work of organizations engaged in this task.
	GC IV, Art. 27	In the context of occupation, protected persons are entitled to **respect** for their **family rights**.

PRESERVATION OF FAMILY LINKS	GC IV, Arts. 43; 106; AP I, Art. 79; GC III, Arts.17; 18	**Identification information** must be taken and registered for various categories of persons in the hands of a party to the conflict, e.g. interned and detained civilians, journalists, prisoners of war.
	GC IV, Art. 49	In situations of occupation, if the Occupying Power carries out evacuations, it must ensure, to the greatest practicable extent, that members of the same family are **not separated**.
	GC IV, Art. 50	In situations of occupation, the Occupying Power must take all necessary steps to facilitate the identification of **children** and the registration of their parentage. The Occupying Power is prohibited from changing the personal status of children.
	GC IV, Art. 82; AP I, Art. 75(5) and Art. 77(4)	In situations of occupation, if civilians are **interned**, members of the same family must be **lodged together**. Internees may request that their children who are left at liberty without parental care be interned with them.
	GC IV, Arts. 107; 116; 128	In situations of occupation, family members are permitted to **visit** detained or interned relatives. If the place of detention has been changed, **correspondence** must be **forwarded** without delay.
	GC IV, Art. 128	In situations of occupation, to ensure that family links are not severed in situations where only certain members of a family have been interned, and they are **transferred** from one place of internment to another, internees must be officially advised of their departure and their new address in time for them to inform their next of kin.

PRESERVATION OF FAMILY LINKS	AP I, Art. 32	Activities concerning the missing and the dead are prompted by the **right of families to know the fate of their relatives.**
	AP I, Art. 34	As soon as circumstances permit, parties to a conflict and other States in whose territory graves and other burial locations are situated must conclude agreements to facilitate **access to gravesites** by relatives of the deceased. They must also facilitate the return of the remains of the deceased to the home country at the request of the country or of the next of kin.
	AP I, Art. 78(3)	If children are evacuated from their State of nationality, the evacuating State must issue an **identification card** for each **child**, setting out as much information as possible, and forward the card to the ICRC's Central Tracing Agency, in order to facilitate the return of children at the end of the conflict.
	AP II, Art. 4(3)(b)	In **non-international armed conflicts**, parties to a conflict are required to take all appropriate steps to **reunite families** that have been separated.
	AP II, Art. 5(2)(b)	Persons whose liberty has been restricted for reasons related to a non-international armed conflict must be allowed to send and receive **correspondence**.
ACCESS TO EDUCATION AND INFORMATION	GC IV, Arts. 24; 50; AP I, Art. 78(2)	Parties to an armed conflict are required to facilitate the **education of children** separated from their families. Emphasis is placed on entrusting the education, wherever possible, to persons of a cultural tradition similar to that of the children.

ACCESS TO EDUCATION AND INFORMATION	GC IV, Art. 50	In situations of **occupation**, the Occupying Power is required to facilitate the proper working of all national and local institutions devoted to the care and education of children.
	AP I, Art. 57(2)(c)	An effective **advance warning** must be given prior to the launch of an attack that may affect the civilian population.
	AP II, Art. 4(3)(a)	In **non-international** armed conflicts, children must receive an education, including religious and moral education, in keeping with the wishes of their parents, or in the absence of parents, of those responsible for their care.
RELIGIOUS AND CULTURAL PRACTICES	GC I, Art. 15(3)	Local arrangements may be concluded between parties to a conflict for the **passage** of medical and **religious personnel** and equipment on their way to besieged or encircled areas.
	GC I, Art. 17(2)	Bodies must not be **cremated** except for imperative reasons of hygiene or motives based on the religion of the deceased.
	GC I, Art. 17; GC III, Art. 120; GC IV, Art. 130	Persons who die in the hands of the enemy must be **buried**, if possible, in accordance with the rites of their religion.
	GC I, Art. 24; GC II, Art. 36; AP I, Art. 15(5)	**Religious personnel** must be respected and protected.

RELIGIOUS AND CULTURAL PRACTICES	GC I, Art. 28; GC II, Art. 37; GC III, Arts. 35-7; GC IV, Arts. 17; 58; 93	Religious personnel have the right to provide **spiritual assistance** to the wounded, sick and shipwrecked, to prisoners of war, to civilians in besieged areas, to civilian internees and detainees and to the civilian population of occupied territories.
	GC III, Art. 34; GC IV Arts. 38(3); 93	Prisoners of war, interned civilians and protected persons in occupied territories have the **right to practise their religion**, for example by attending services of their faith.
	GC IV, Art. 23; 108; 142; AP I, Art. 70	Religious items are included in the supplies which must be granted **free passage** through the territories of parties to GC IV or which can be provided in relief consignments by humanitarian organizations.
	GC IV, Art. 27	Protected persons are entitled, in all circumstances, to respect for their **religious convictions** and practices, and their manners and customs.
	AP I, Art. 53	**Cultural objects** and of **places of worship** are protected. Prohibition of any acts of hostility directed against the historic monuments, works of art or places of worship which constitute the cultural or spiritual heritage of peoples; of using such objects in support of the military effort and of making such objects the object of reprisals.
	AP I, Art. 69; GC IV, Art. 58	In situations of **occupation**, the Occupying Power is required to the fullest extent of the means available to it, to ensure the provision of **objects** necessary for religious worship and to accept consignments of **books** and **articles**

RELIGIOUS AND CULTURAL PRACTICES		required for religious needs and to facilitate their distribution in the occupied territory.
	AP II, Arts. 4(1); 4(3)(a)	In **non-international armed conflicts**, the **convictions** and religious practices of all persons who are not taking a direct part in hostilities must be respected and **children** must be able to receive religious and moral **education**.
	AP II, Art. 16	Prohibition of acts of hostility against places of worship, which constitute the **cultural and spiritual heritage** of peoples as well as their use in support of the military effort in **non-international armed conflicts**.
	AP I, Art. 85 (4)(d)	Making clearly recognized historic monuments, works of art or places of worship, which constitute the cultural or spiritual heritage of peoples and to which special protection has been given, the object of attack, causing extensive destruction thereof, where there is no evidence that the adverse party has violated the prohibition to use such objects in support of the military effort, and when such historic monuments, works of art and places of worship are not located in the immediate proximity of military objectives, are **grave breaches**.
	ICC Statute, Arts. 8(2)(b)(ix); 8(2)(e)(iv);	Intentionally directing attacks against buildings dedicated to religion, provided they are not military objectives, is a **war crime** in both international and non-international armed conflicts.

LEGAL ISSUES	Hague Regulations, Art. 3, AP I, Art. 90(1)	Right to **compensation** for violations of the Hague Regulations, the GCs and AP I.
	Hague Regulations, Art. 23(h)	Prohibition on declaring abolished, suspended or inadmissible in a court of law the rights and actions of nationals of the hostile party.
	GC I, Art. 16; GC II, Art. 19; GC III, Arts. 77; 120; GC IV, Arts. 113; 129	Death certificates, authenticated lists of dead, wills, powers of attorney and other **legal documents** relating to persons in the power of the adverse party must be transmitted.
	GC IV, Art. 24; AP I, Art. 78(3)	Parties to armed conflict must issue **personalized identification documents** or other means of identification, such as identity discs, to children.
	ICC Statute, Art. 8(2)(b)(xiv)	Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party, is a **war crime in international armed conflicts**.

PART II: WOMEN DEPRIVED OF THEIR FREEDOM		
ISSUE	**PROVISIONS**	**CONTENT**
ACCOM-MODATION, FOOD AND WATER	GC III, Art. 23; GC IV, Art. 83	Prisoner-of-war camps and internment camps must not be **located** in areas particularly exposed to the dangers of war, and must not be used to render certain points or areas immune from military operations.
	GC III, Art.22; GC IV, Art.85	Prisoners of war and civilian internees must be detained in premises affording every guarantee of **hygiene** and **healthfulness**. Prisoners of war and civilian internees must be removed as soon as possible to a more favourable climate if placed in unhealthy areas or where the climate is injurious to them.
	GC III, Arts. 22; 97; GC IV, Arts. 84; 124	Prisoners of war and civilian internees should be held in **separate detention facilities**, or at least in different quarters.
	GC III, Arts. 25; 97; GC IV, Arts. 76; 85; 124; AP I, Art. 75(5)	In prisoner-of-war and civilian internment camps, and where prisoners of war and civilian internees are detained for disciplinary punishment, **women** must be confined in **separate quarters from men** and must be under the immediate **supervision of women**.
	GC III, Art. 26; GC IV Art. 89	Prisoners of war and interned civilians must be given daily food rations sufficient in quantity, quality and variety to keep them in good health and prevent nutritional deficiencies. Account must be taken of their customary diet.

ACCOM-MODATION, FOOD AND WATER	GC IV, Art. 82; AP I, Art. 75(5)	Whenever members of the same family are deprived of their liberty, they are required to be accommodated as **family units**.
	AP II, Art. 5(2)(a)	In **non-international armed conflicts**, except when men and women of the same family are accommodated together, women must be held in **quarters separate from those of men** and must be under the immediate **supervision of women**.
	AP II, Art. 5(2)(b)	Persons who have been deprived of their liberty in relation to a **non-international armed conflict** must to the same extent as the local population be provided with **food** and **drinking water** and be afforded **protection** against the dangers of armed conflict.
	AP II, Art. 5(2)(c)	In **non-international armed conflicts**, places of internment and detention must not be located close to the combat zone, and internees and detainees must be **evacuated** if these places become particularly exposed to the dangers arising from armed conflict, provided the evacuation can be carried out in adequate conditions of safety.
TREATMENT AND SAFETY	GC III, Arts. 13; 14	Prisoners of war must be **treated humanely** at all times and are entitled to **respect** for their persons and their **honour** in all circumstances.
	GC III, Art. 13	A Detaining Power must **protect** prisoners of war from acts of violence or intimidation and from insults and public curiosity.

TREATMENT AND SAFETY	GC III, Arts.13; 14	Unlawful acts or omissions by a detaining authority causing the **death** or seriously **endangering** the **health** of prisoners of war are prohibited. Prisoners of war must not be subjected to physical mutilation or to medical or scientific experiments.
	GC III, Art. 14	**Women** prisoners of war must be treated with all the regard due to their sex and must in all cases benefit from treatment as favourable as that granted to men.
	GC III, Art. 17	Prohibition of the use of physical or mental **torture** and any form of **coercion** in order to secure information of any kind from prisoners of war.
	GC III, Art. 88	Female prisoners of war may not be sentenced to more severe **punishment** or be treated more severely when undergoing punishment than female or male members of the Detaining Power's forces for a similar offence.
	GC III, Art. 97; GC IV, Arts. 76; 124; AP I, Art. 75(5); AP II, Art. 5(2)(a)	Women deprived of their liberty in relation to international or non-international armed conflicts must be placed under the immediate **supervision of women**.
	GC IV, Art. 97	A woman civilian internee must not be **searched** except by a woman.
	GC IV, Art. 117	**Disciplinary penalties** may not be inhuman, brutal or dangerous to the health of civilian internees and account must be taken of the internees' age, sex and state of health.
	AP II, Art. 5(2)(e)	The physical or mental **integrity** of persons deprived of their liberty for reasons related to a **non-international conflict** must not be endangered by any

		unjustified act or omission. It is prohibited to subject these persons to any medical procedure not justified by the state of health of the person concerned.
HEALTH AND MEDICAL CARE	GC III, Art. 15; GC IV, Art. 81	A Detaining Power must provide **free** of charge any **medical attention** required by the state of health of prisoners of war or civilian internees.
	GC III, Art. 55	Every prisoner-of-war camp must have an adequate **infirmary** and, if necessary, isolation wards for contagious or mental **diseases**. Prisoners of war suffering from serious diseases or who are in need of special treatment, surgical procedures or hospital care must be admitted to military or civilian hospitals where such treatment can be provided. Periodic check-ups must also be carried out to assess the fitness of prisoners of war for work, with particular regard to the nature of work which the prisoners of war are required to perform.
	GC III, Art. 72; GC IV, Art. 108	**Medical supplies** form part of the relief shipments that prisoners of war and interned civilians are allowed to receive, either individually or collectively.
	GC IV, Art. 91	Every place of internment must have an adequate **infirmary**. Isolation wards must be set aside for cases of contagious or mental diseases. **Maternity cases** and internees suffering from contagious diseases, or whose condition requires special treatment, surgical procedures or hospital care, must be admitted to an institution where adequate treatment can be given, and must receive care not inferior to that provided for the general population.

	AP II, Arts. 5(1)(b); 5(2)(d)	Persons deprived of their freedom in relation to a **non-international armed conflict** must be afforded safeguards as regards health to the same extent as the local population, and must have the benefit of **medical examinations.**
HYGIENE AND SANITATION	GC III, Art. 28	Prisoners of war must be provided with sufficient **water** and **soap** for their personal use and for washing their personal laundry.
	GC III, Art. 29	A Detaining Power must take all **sanitary measures** necessary to ensure the cleanliness and healthfulness of prisoner-of-war camps, and to prevent epidemics. In any camps accommodating **women, separate conveniences** must be provided for them.
	GC IV, Arts.85(1); (3)	A Detaining Power must take all necessary and possible measures to ensure that interned civilians, from the outset of their internment, are accommodated in buildings or quarters which afford every possible safeguard as regards **hygiene** and **health**, and provide efficient protection against the rigours of the climate and the effects of the war. Internees must be provided with sufficient **water** and **soap** for their daily personal use and for washing their personal laundry.
	GC IV, Art. 85(4)	Whenever it is necessary, as an exceptional and temporary measure, to accommodate women internees who are not members of a family unit in the same place of internment as men, the provision of **separate sleeping quarters** and **sanitary conveniences** for the use of such women internees shall be obligatory.

	AP II, Art. 5(1)(b)	Persons deprived of their freedom in relation to **non-international armed conflict** must be afforded safeguards as regards **hygiene** to the same extent as the local civilian population.
PRESERVATION OF FAMILY LINKS		See "PRESERVATION OF FAMILY LINKS" in Part I of this Annex and "ACCOMMODATION, FOOD AND WATER" in Part II of this Annex.
EDUCATIONAL, RECREATIONAL AND WORK PROGRAMMES	GC III, Art. 38	A Detaining Power must encourage the practice of **intellectual, educational** and **recreational pursuits** among prisoners of war, and provide adequate premises and the necessary equipment for this.
	GC III, Arts. 49; 51; 52	A Detaining Power may utilize the **labour** of prisoners of war who are physically fit, taking into account their age, sex, rank and physical aptitude. Prisoners of war must be granted suitable working conditions. Unless they volunteer, they may not be employed to perform labour of an unhealthy or dangerous nature.
	GC III, Art. 72; GC IV, Art. 108	Individual and collective **relief shipments** for prisoners of war and civilian internees may include books and objects of an educational or recreational character, and, in the case of prisoners of war, scientific equipment, examination papers, musical instruments, sports outfits, and materials which permit the pursuit of studies and cultural activities.
	GC III, Art. 98	All prisoner-of-war camps must include sufficient **open space** for the purpose of physical exercise, including sports and games. Prisoners of war undergoing

EDUCATIONAL, RECREATIONAL AND WORK PROGRAMMES		disciplinary punishment must also be allowed to exercise and to remain in the open air for at least two hours daily.
	GC IV, Art. 94	A Detaining Power must ensure the **education** of children and young people in civilian internee camps and allow them to attend schools, either within the place of internment or outside. Special **playgrounds** must be reserved in the place of detention for children or young people.
	GC IV, Art. 95	A Detaining Power must not employ civilian internees as workers unless they so desire. Work of a degrading or humiliating character or which is directly related to military operations is prohibited.
	AP II, Art. 4(3)(a)	In **non-international armed conflicts**, children are required to receive **education** in keeping with the wishes of their parents.
	AP II, Art. 5(1)(c)	Persons deprived of their freedom in relation to a **non-international armed conflict** are allowed to receive individual or collective **relief**, which should be taken as including books and other objects of an educational or recreational character.
	AP II, Art. 5(1)(e)	If made to **work**, persons deprived of their freedom for reasons related to the armed conflict must have the benefit of working conditions and safeguards similar to those enjoyed by the local population.

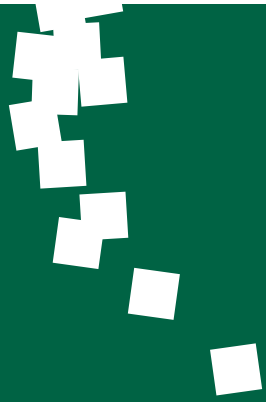
	GC III, Art. 130; GC IV, Art. 147	Compelling prisoners of war and protected persons to serve in the armed forces of a hostile power is a **grave breach**.
	ICC Statute, Art. 8(2)(a)(v)	Compelling prisoners of war and other protected persons to serve in the forces of a hostile power is a **war crime** in international armed conflicts.
RELIGIOUS AND CULTURAL PRACTICES	GC III, Arts. 34-37; GC IV, Arts. 86; 93	Prisoners of war and civilian internees must be granted complete latitude in the exercise of their religious duties, including attendance at **religious services** of their faith. Detaining Powers must provide adequate **premises** in which such services can be held. Detained ministers of religion must be allowed to minister freely.
	GC III, Art. 72; GC IV, Art. 108; AP II, Art. 5(1)(c)	Individual and collective **relief shipments** for prisoners of war and civilian internees may include articles of a religious character.
	GC IV, Art. 82	A Detaining Power must, as far as possible, accommodate civilian internees according to their **nationality**, **language** and **customs**.
	AP II, Art. 4(1)	In **non-international armed conflicts**, all persons, regardless of whether their liberty has been restricted, are entitled to **respect** for their **convictions** and **religious practices**.
PERSONAL DOCUMENTS	GC I, Art. 40; GC III, Arts. 18; 77; GC IV, Art. 97	Prisoners of war and civilian internees must not be without **identification documents**. If they lack such documents, the Detaining Power is required to provide them.

	GC III, Art. 77; GC IV, Art. 113	Detaining Powers are required to facilitate the **execution** and **authentication of documents** such as wills, powers of attorney and letters of authority by prisoners of war and interned civilians, in particular by allowing them to consult a lawyer.
JUDICIAL GUARANTEES	GC III, Art. 84; GC IV, Art. 71; AP I, Art. 75(4); AP II, Art. 6(2)	Right to be judged by an **impartial** and **regularly constituted court** recognizing the principles of regular judicial procedures.
	GC III, Art. 86; GC IV, Art. 117; AP I, Art. 75(4)(h)	Principle of *non bis in idem* (prohibition of **double jeopardy**).
	GC III, Art. 87; GC IV, Art. 33; AP I, Art. 75(4)(b); AP II, Art. 6(2)(b)	Principle of **individual** criminal responsibility.
	GC III, Art. 88	A **woman prisoner of war** must not be sentenced to a punishment more severe, nor treated more severely while undergoing punishment than a woman member of the armed forces of the Detaining Power dealt with for a similar offence. A woman prisoner of war may in no case be sentenced or treated more severely while undergoing punishment than a male member of the armed forces of the Detaining Power dealt with for the same offence.
	GC III, Arts. 99; 105; GC IV, Arts. 72; 74; AP I, Art. 75(4)(a); (g); AP II, Art. 6(2)(a)	Right to a **defence**: right to legal assistance, to a competent interpreter, as well as the right to call and examine witnesses.

JUDICIAL GUARANTEES	GC III, Art. 99; GC IV, Art. 67; AP I, Art. 75(4)(c); AP II, Art. 6(2)(c)	Principle of *nullum crimen sine lege* (**no crime without law**).
	GC III, Art. 104; GC IV, Art. 71; AP I, Art. 75(4)(a); AP II, Art. 6(2)(a)	Right to be **promptly informed** of the **offences** with which an individual is charged.
	GC III, Art. 106; GC IV, Art. 73; AP I, Art. 75(4)(j); AP II, Art. 6(3)	Right to **appeal**.
	AP I, Art. 75	**Fundamental judicial guarantees** apply to persons who are in the power of a party to an international conflict, who do not benefit from more favourable treatment under the GCs or AP I.
	AP I, Art. 75(4)(d); AP II, Art. 6(2)(d)	Right to the **presumption of innocence**.
	AP I, Art. 75(4)(e); AP II, Art. 6(2)(e)	Right to be **present** at one's trial.
	AP I, Art. 75(4)(f); AP II, Art. 6(2)(f)	Right not to testify against oneself or to **confess** guilt.
	AP I, Art. 75(4)(i)	Right to have judgement pronounced **publicly**.
	AP I, Art. 76(2)	**Pregnant women** and **mothers** having dependant infants who are arrested, detained or interned for reasons related to the armed conflict shall have their cases considered with the utmost **priority**.

JUDICIAL GUARANTEES	AP I, Art. 76(3)	To the maximum extent feasible, parties to a conflict must endeavour to **avoid** the pronouncement of the **death penalty** on **pregnant women** or **mothers** having dependent infants, for an offence related to the armed conflict. The death penalty for such offences must not be executed on such women.
	GCs, Common Art. 3	Prohibition on passing sentences and carrying out executions without previous judgement pronounced by a regularly constituted court, affording all **judicial guarantees**, in **non-international armed conflicts**.
	AP II, Art. 6	Safeguards to be applied in the prosecution and punishment of persons charged with criminal offences related to a **non-international armed conflict**, including that the **death penalty** shall not be carried out on pregnant women or mothers of young children.
	GC III, Art. 130; GC IV, Art. 147; AP I, Art. 85(4)(e);	Depriving a protected person of a fair and regular trial is a **grave breach**.
	GC IV, Art. 147	Unlawful confinement of a protected person is a **grave breach**.
	ICC Statute, Arts.8(2)(a)(vi); (vii)	Wilfully depriving a prisoner of war or other protected person of the right to a fair and regular trial, and the unlawful confinement of a protected person are **war crimes** in **international armed conflicts**.

JUDICIAL GUARANTEES	ICC Statute, Art. 8(2)(c)(iv)	The passing of sentences and the carrying out of executions without previous judgement pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable is a **war crime** in **non-international armed conflicts**.



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