



**INTER-AGENCY PROTOCOLS FOR THE
PREVENTION OF SEXUAL ABUSE
AND EXPLOITATION (PSAE)**

**Committee for the Coordination of Services to
Displaced Persons in Thailand
(CCSDPT)**

PART ONE: INTRODUCTION

(a) These “Protocols” have been developed by CCSDPT agency PSAE focal points for adoption by all members of the committee. The Protocols are an additional tool to be used in implementing the commitments set out in the Inter-Agency Code of Conduct for Humanitarian Workers in the Thai-Burma Refugee Programme adopted in August 2008 and are part of the on-going activities of the Prevention of Sexual Abuse and Exploitation (PSAE) Project launched in Thailand in September 2007. The Protocols are to be used by all members to consistently address complaints of sexual abuse and exploitation (SAE) that may be brought to them or their staff by or on behalf of their beneficiaries.

(b) The Protocols are the result of a series of workshops and consultations among the signatory agencies and were developed according to the IASC’s *Model Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and Abuse*¹, although adjustments have been made according to the particular issues and circumstances on the Thai-Burma refugee operations. They have been elaborated in the same spirit as the Inter-Agency Code of Conduct.

(c) The Protocols should be regarded as a “living document” as they apply to a constantly evolving and changing refugee context. Amendments and changes to the Protocols can be made only by submitting a request to the PSAE Steering Committee and seeking approval from the CCSDPT Directors.

PART TWO: THE PROTOCOLS

Protocol I: Acceptance of a CCSDPT Inter-agency Code of Conduct for Humanitarian Workers

1.1. The humanitarian agencies working on behalf of refugees in Thailand are committed to prevent and combat sexual abuse and exploitation. Accordingly, they have agreed to institutionalize a common inter-agency Code of Conduct (Annex A).

1.2. The Code of Conduct is intended to serve as a guide for staff in sustaining ethical behavior. It is designed to assist humanitarian agencies and their staff to better understand the ethical obligations placed upon their conduct and to act accordingly. The agencies party to these Protocols are determined to follow the Code of Conduct provisions and carry out

¹ This document was originally prepared by the Inter-Agency Task Force (TF) on Protection from Sexual Exploitation and Abuse (PSEA) funded by and developed on behalf of UNICEF. A Sub Group of that Task Force, co-chaired by UNICEF and Save the Children, and including representatives from the United Nations High Commissioner for Refugees (UNHCR); the Department of Peace Keeping Operations of the United Nations (DPKO); OXFAM; the International Rescue Committee (IRC); and the Office for the Co-ordination of Humanitarian Affairs (OCHA) later adapted the original document and issued the guidelines referenced in this footnote in March 2004 as a draft.

the undertakings. They commit themselves to not tolerate sexual abuse or exploitation within their operations.

1.3. In this regard, it is reiterated that the CCSDPT inter-agency Code of Conduct has been developed in the spirit of complementing and strengthening pre-existing Codes of Conduct or other instruments within each agency, rather than replace to detract from them.

1.4. It is recommended that each agency of the CCSDPT share the Code of Conduct with their staff, and ensure that the principles outlined in the Code are well understood and acknowledged.

Protocol II: Consistent Reporting and Complaints Mechanisms to be Developed and Implemented within the Thai-Burma Border Operations

2.1. Member agencies of the CCSDPT want to encourage complaints of SAE to be reported in whichever manner individuals feel most comfortable and safe.

2.2. Agencies agree that an initial complaint of SAE can be raised at any level and through any method. The report might come through an existing structure such as a CBO, the SGBV committees, through a complaints box, or the report might come directly to the agency from the community member.

2.3. Agencies hereby agree that field based staff will be designated at each operational site as the primary PSAE focal point(s) to be responsible for receiving reports and sending them to the Head of Agency for action and investigation. In cases where there is a Field Coordinator or person in senior position on based at the location with direct oversight of the PSAE focal point, the PSAE focal point will send the report to that person or Field Coordinator, with a copy to the Head of Agency.

2.4 Agencies hereby agree that upon receiving a report of SAE, the Head of Agency will notify the UNHCR Field Office. Notification of SAE cases to UNHCR is for trend monitoring and protection data collection purposes.² The Head of Agency will report the following: *Date of incident; Location of incident; Gender of the victim; Age of victim; Type of incident; Referral to counselling services; Referral to medical services; Position type of the perpetrator.* The report can be made using the form in Annex G.

2.5 PSAE focal points will also be responsible for following up on support services which the survivor might need as prescribed in the SGBV standard operating procedures. They will communicate with the relevant agencies, community groups and organizations within the camps to ensure the necessary support services are provided to the survivor, and ensure consistent communication regarding the status of the administrative and investigative procedures until final action has been taken. Focal points will, however avoid any

² This data collection exercise stands totally separate to notification of SAE incidents to UNHCR in which UNHCR has been requested to intervene directly and assumes a direct case management role (see Protocol V - 5.4).

duplication in case management or service provision with any of the service providers in camp.

2.6 The agencies agree to take responsibility for distributing information about the reporting and referral system widely among their staff and the beneficiary communities. Information on the process, how to report, whom to report to, and what will happen once a report is made will be shared through consistent and coordinated communication and outreach campaigns initiated at each work site (Annex B).

Protocol III: Acceptance of the Investigation Procedures and Guidance Related to Sexual Abuse and Exploitation (SAE)

3.1. The signatory agencies have considered the IASC Task Force’s *Complaints and Investigation Procedures and Guidance Related to Sexual Exploitation and Sexual Abuse*. The agencies find that this document outlines a comprehensive and useful set of procedures on how to conduct investigations and interviews in cases involving allegations of sexual abuse and exploitation.

3.2. The signatory agencies have also agreed:

3.2.1. To adopt the procedures and guidelines as a guide for conducting investigations of any cases of sexual abuse and exploitation reported to them.

3.2.2. In each case reported to an agency, it is vital that clear and comprehensive information should be gathered about the complaint by completing the Incident Report Form (Annex C), as well as on the situation of the complainant/survivor and accused.

3.2.3. Agencies agree to follow the recommended guidelines when processing complaints of SAE from the time reports are received by an organisation until the time the organisation closes an investigation. The main goal of an investigation into allegations of SAE is to gather information that proves, or disproves, the allegation, in order to determine whether the abuse or exploitation occurred. Investigations should be conducted by designated agency staff who have been trained in the IASC approved investigations procedures, and can undertake the proceedings in a professional, responsible, objective manner while maintaining confidentiality, thoroughness and respect for all concerned at all times throughout the process. Agency investigations in no way supersede or prevent the reporting (and subsequent investigation) of any criminal matter to the Royal Thai Police should the survivor wish to report, nor will an ongoing police investigation negate the need for agencies to carry out their own investigation of a member of staff who has allegedly abused a beneficiary.

Protocol IV: Acceptance of a Standardized Procedure for Supporting the Needs of Survivors, Complainants and Accused

4.1. A comprehensive approach is necessary to ensure that the protection needs of survivors, complainants, their families, as well as the accused. The medical, psychosocial care, legal referral, protection, security and other service needs should all be taken into account and addressed properly as prescribed in the SGBV standard operating procedures. A list of the services available and the agencies which provide them in the respective camps is contained as Annex D.

4.2. The agencies are also aware that allegations of SAE are sometimes made maliciously and without foundation. The need to support the victims of such false allegations is also fully recognised.

4.3. In view of all the above, the signatory agencies hereby agree that:

4.3.1. The focal point who receives the complaint should consider the protection/health/assistance/legal/security needs of the complainant/survivor, seeking advice from senior staff as appropriate. Information on the services available within the organisation receiving the complaint should be provided to the complainant and access to those services facilitated in every way possible.

4.3.2. Where the services are available elsewhere, the agency receiving the complaint should still help the complainant or survivor in gaining access to them, if necessary providing staff to accompany him or her. As much as possible focal points should follow the already existing SGBV standard operating procedures for referral of support services.

4.3.3. All efforts must be made to protect and support the privacy, confidentiality and fundamental rights of the survivor, complainant, witnesses, and the subject of complaint.

4.3.4. While all agency staff should be approachable with an initial report of SAE, designated focal points to process the complaint must have the appropriate information at hand and be provided with sufficient training to take on this responsibility to receive and channel reports and provide follow- up support.

4.3.5. Where it is clear that a person has been the victim of malicious, unfounded allegations, every effort should be made to help clear and restore his or her reputation. Coaching and managerial support should also be provided for any psychological strain that may have been caused.

4.3.6. Irrespective of the nature of the complaint, agencies have a duty of care to the subject of complaint throughout the reporting and investigation process. Protection and support issues must be considered and addressed to ensure the safety and security of staff.

Protocol V: Inter-agency Coordination in Situations when an Agency Receives a Complaint about Another CCSDPT Member.

5.1. Fear of repercussion is often a key reason why staff and beneficiaries may not report cases of SAE. To ensure that systems are put in place to dispel such fears, the following are agreed upon as recommended practices.

5.2. Complaints can be made to another organization with established protocols for the prevention of sexual abuse and exploitation. These circumstances include, but are not limited to, the staff member or beneficiary genuinely believing that raising the matter within that specific organisation directly would not be effective or would result in further victimization. They also include cases where he/she may have already disclosed the matter to the concerned organisation but no effective action has been taken.

5.3. An organization may receive a complaint against another, or may, even without receiving a formal complaint, become aware of an apparent case of SAE allegedly perpetrated by staff of another agency. The following procedures shall be adhered to in dealing with these situations:

5.3.1. The wishes of the survivor must be respected at all times. The agency receiving the complaint shall seek the permission of the person reporting it to draw his or her report to the Head of the Agency concerned. If the complainant agrees, then the agency receiving the complaint can share that complaint accordingly. This report shall be made in writing by completing the Incident Report Form and sending it to the Head of the Agency concerned.

5.3.2 In recognition that reports made to a specific CCSDPT agency concerning personnel of another are highly sensitive, the agency receiving the report will not only strictly follow the above procedures but will carefully document why the complaint was received by the agency and not the concerned agency. This information will be included in the Incident Report Form. While respecting the wishes of the survivor and the need for confidentiality, the reasons for not reporting to the agency concerned will be made known to the Head of Agency.

5.3.3. The agency employing the subject of the complaint shall receive such report and carry out investigations and the relevant administrative and disciplinary measures in good faith, properly, urgently, seriously and professionally.

5.3.4. It shall also share information about status of the case with the reporting agency in good faith directly with that agency.

5.4 In cases where the alleged survivor or complainant specifically requests an intervention or action by UNHCR, the agency receiving the report will transmit all details and information provided to the agency regarding the case using the IRF form. The agency will advise the complainant that UNHCR can only take meaningful action if it has all relevant information and that her/his express consent will be needed. The agency will also advise the survivor or complainant that UNHCR staff members adhere to strict standards of confidentiality when handling and protection cases.

Protocol VI: Establishment of a CCSDPT Inter-agency PSAE Steering Committee

6.1. A *PSAE Steering Committee* is hereby established. The Steering Committee shall be comprised of sectoral representation of the member agencies of the CCSDPT and UNHCR, and will be housed within the CCSDPT Protection Working Group (PWG) which meets in Bangkok.

6.2. The role and functions of the Steering Committee shall be to address issues and concerns relevant to the full and effective implementation of the Inter-Agency Code of Conduct and the CCSDPT Protocols. The Steering Committee shall be responsible for reviewing best practices when addressing reports of sexual abuse and exploitation.

6.3. The Steering Committee will meet every four months to receive information and updates on the actions that have been taken to address SAE complaints, and discuss other relevant issues that arise. This shall not include specific details of cases (names, dates, or other identifying information) but be restricted to discussions about what types of actions have been taken and how these can be improved. It shall review the lessons learned from the PSAE activities of the agencies, trend analysis, and agree on ways for better and more effective implementation.

6.4. The Steering Committee will serve as the decision making body for networking and collaboration with other regional initiatives, and shall assume responsibility for representing the CCSDPT inter-agency PSAE initiative to external parties. The Steering Committee shall assume responsibility for reporting back to all CCSDPT agencies on PSAE developments and information gathered.

6.5 At its first meeting, the Steering Committee will approve and adopt its Terms of Reference which will be in effect for the duration of one year. The Terms of Reference (Annex E) has been developed following consultations with agency representatives and members of the Protection Working Group.

PART THREE: IMPLEMENTATION AND ADHERENCE

These Protocols are signed for and on behalf of the parties by their respective Heads of Agency appearing below. By so signing the Protocols, the signatories undertake:

- (i) That they have read, understood and are in full agreement with the content of the Protocols.
- (ii) To disseminate the contents of the Protocols within their respective agencies, and take all necessary steps to ensure their implementation and adherence by all their respective workers.
- (iii) To work together in collaboration and create an environment in which the spirit of the Protocols is fully enforced.

(iv) To disseminate the Protocols publicly to their staff and beneficiaries and in the local languages.

(v) To ensure that any and all breaches of the CCSDPT Inter-Agency Code of Conduct for Humanitarian Workers are dealt with according to these Protocols decisively and without delay.

ANNEX A: CCSDPT Inter Agency Code of Conduct

Committee for Coordination of Services to Displaced Persons in Thailand (CCSDPT) **INTER-AGENCY CODE OF CONDUCT**

I. INTRODUCTION

(a) Background

Conflict and displacement inevitably erode and weaken the social and political structures that protect communities and individuals. The resources available to affected populations and humanitarian agencies assisting them are frequently insufficient to meet basic needs. All too often, mechanisms for protection are not fully effective or given sufficient priority. Against this background, affected populations find themselves in situations where they can be exploited or abused. Such environments can give rise to abuse of power by humanitarian workers and others providing assistance.

(b) Code of Conduct

The humanitarian agencies working with refugees in Thailand are determined to prevent and respond to the possibility of abuse or exploitation. Among the steps towards this objective, they agree to institutionalize a common inter-agency Code of Conduct.

The Code is intended to serve as an illustrative guide for staff in sustaining ethical behavior. It is designed to assist humanitarian agencies and their staff to better understand the ethical obligations placed upon their conduct and to act in accordance with the public trust endowed on them. The agencies party to this Code will not tolerate abuse, exploitation and corruption within their operations. They shall pursue vigorously any breaches of the Code according to their respective administrative rules, regulations and sanctions.

This Code of Conduct has been developed in the spirit of complementing and strengthening similar Codes or other instruments within each agency, rather than replace or detract from them.

(c) Humanitarian workers

Not only the internationally engaged workers of humanitarian organizations have the obligation to demonstrate ethically upright behavior. Large numbers of personnel are engaged in refugee programs in a variety of capacities ranging from volunteers, incentive workers, researchers, casual labourers, interns, drivers, and guards to decision-makers at the country, regional and international levels. Many of these workers are drawn from the beneficiary communities themselves. As far as this Code is concerned, by accepting employment of any kind in these situations, all such workers accordingly also assume the special duty of humanitarian care and ethical conduct that goes with their responsibilities.

In adopting this Code of Conduct, the signatory agencies signal their responsibility to uphold its standards of behavior. Senior managers acknowledge that they have a special duty to personally set good examples and maintain a working environment in which their workers can sustain ethical behavior in the discharge of their responsibilities.

II INTERPRETATION

For purposes of this Code of Conduct:

“Accountability” : refers to the moral and legal responsibility of a humanitarian worker for his or her duties and actions in a proper and responsible manner. It also includes institutional measures and systems established to maintain appropriate standards of behavior and effective performance of duties by workers.

“Affected populations” : are the individuals or groups for whom the humanitarian activities of the respective agencies are intended.

“Beneficiary” : a person to whom the humanitarian agencies or their workers provide one or another form of protection, assistance, service, or other intervention.

“Discrimination” : means exclusion, treatment, or action against an individual based on social status, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, nationality, political affiliation, or disability.

“Gender” : cultural or societal differences between men and women in terms of roles and responsibilities, expectations, power, privileges, rights and opportunities. It also refers to the differences between men and women rooted in culture, tradition, society or religion.

“Harassment” : means any comment or behavior that is unwelcome, offensive, demeaning, humiliating, derogatory, or is otherwise inappropriate or fails to respect the dignity of an individual. It can be committed by or against a beneficiary, partner, employee, official, or any other person involved in any way in the refugee program.

“Human Rights” : the agreed international standards that recognize and protect the dignity and integrity of every individual without any distinction.

“Humanitarian standards of behavior” : the professional and moral attributes established in this Code of Conduct which must be demonstrated by humanitarian workers in fulfilling their assigned tasks, without exploiting or abusing their positions of authority.

“Humanitarian worker” : includes all workers engaged by humanitarian agencies, whether international or national, formal or informal, retained from the beneficiary community, sub-contracted, permanent or temporary, to conduct the activities assigned by the employing agency. Any worker that is directly or indirectly involved with refugee communities is considered to fall under this definition, including community leaders, camp committees, local authority representatives, etc.

“Minor” : a person under the age of 18 years of age and corresponds to the definition of a child according to the Convention on the Rights of the Child (CRC).

“Power” : the authority or ability to materially affect various forms of rights, entitlements, or relationships. Power arises from position, rank, influence, status, or control of resources. Unequal power relationships provide the most critical settings for sexual abuse and exploitation to occur in a refugee environment.

“Protection” : measures that are necessary or are actually taken to ensure that individual basic human rights, welfare, and physical security and integrity are recognized and safeguarded in accordance with international standards.

“Refugee” : means a person entitled to be provided protection, assistance or other services by the agencies party to this Code to international refugee law or their respective agency mandates.

“Sexual abuse” : actual or threatened physical intrusion of a sexual nature, by force or under unequal or coercive conditions, and includes inappropriate touching.

“Sexual exploitation” : sexual coercion or manipulation, whereby a person in a position of power, authority, or in control of resources seeks or accepts to provide protection, assistance or service in exchange for sexual acts or favours. Sexual exploitation also includes taking advantage of a position of vulnerability, differential power, or trust for sexual purposes.

“Sexual and gender based violence” : or SGBV, includes actual or threatened physical, sexual and psychological violence occurring in the family or community. SGBV may take the form of battering, sexual abuse, dowry related violence, marital rape, female genital mutilation, and other traditional practices harmful to women.

“Sexual harassment” : any unwelcome sexual advance, comment, expressed or implied sexual demand, touch, joke, gesture, or any other communication or conduct of a sexual nature, whether verbal, written or visual, by any person to another individual. Sexual harassment may be directed at members of the same or opposite sex and includes harassment based on sexual orientation.

“Survivor” : refers to those who have suffered the abuse, exploitation, corruption, or abuse of power as outlined in this Code of Conduct and may include their family members, dependents, relatives, or close associates.

III. UNDERTAKINGS

3.1 Humanitarian workers assisting refugees from Burma who are living in Thailand shall:

3.1.1. Respect and promote the fundamental human rights of all, without discrimination of any kind and irrespective of social status, race, ethnicity, colour, religion, gender, sexual orientation, age, marital status, national origin, political affiliation or disability.

3.1.2. Treat all beneficiaries and other persons fairly and with respect, courtesy, and dignity according to the laws of Thailand and international refugee law.

3.1.3. Never commit any act or form of harassment that could result in the physical, sexual, or psychological harm or suffering to individuals.

3.1.4. Never exploit the vulnerability of beneficiaries, especially women and children, or allow them to be put into compromising situations.

3.1.5. Never engage in any sexual activity with children - persons under the age of 18 - regardless of the age of majority or consent. It shall not be a defense that one was mistaken as to the age of the child concerned.

3.1.6. Never engage in sexual abuse or exploitation of beneficiaries under any circumstances.

3.1.7. Never condone or participate in any corrupt or illegal activities.

3.1.8. Never accept or exchange money, employment, goods, or any other services for sex, including sexual favors for services which would otherwise be provided to the beneficiaries by duty and free of charge.

3.1.9. Never engage in any other forms of humiliating, degrading, or exploitative behavior under any circumstances.

3.1.10. Never abuse their authority, position, or influence by withholding protection, humanitarian assistance, nor give preferential treatment in order to solicit sexual favors, gifts, payments of any kind, or any other advantage.

3.1.11. Ensure that all information, including reports of breaches of these standards by other workers or obtained from beneficiaries, is channeled correctly in accordance with the CCSDPT established reporting mechanism and handled with utmost confidentiality.

3.1.12. Uphold the highest standards of accountability, efficiency, competence, integrity and transparency in the provision of protection, goods and services in the execution of their responsibilities.

3.1.13. Create and maintain an environment that prevents sexual abuse and exploitation, corruption, or abuse of power and promotes the implementation of this Code. Managers at all levels have particular responsibilities to support and develop systems that maintain and enhance this environment.

3.1.14. Not intentionally make false allegations or accusations against another worker of breaching the provisions of the Code of Conduct.

3.1.15. Report immediately, in accordance with the agency's internal structure and CCSDPT reporting mechanism, any concerns or suspicions of sexual abuse and exploitation of humanitarian staff. Failure to report concerns of sexual abuse and exploitation will constitute misconduct and be considered grounds for disciplinary measures, including termination of employment.

IV. SEXUAL RELATIONS WITH BENEFICIARIES

4.1. Humanitarian workers occupy positions of authority, power and control of resources and services. It is thus crucial that there should be concern over sexual relationships between them and beneficiaries, including those which may be said to be proper and consensual. The agencies party to this Code of Conduct unanimously favor the position that sexual relationships between humanitarian workers and beneficiaries are strongly discouraged.

4.2. As refugees themselves are covered by this Code of Conduct, and many of them have relationships, including marriages, with other refugees, the discouragement of sexual relations between beneficiaries and humanitarian workers who are refugees would deny them the opportunity of establishing consensual and proper relationships.

4.3. Therefore, the following standards shall apply on this issue:

4.3.1. Sexual relationships with beneficiaries which are consensual and proper shall not be discouraged provided the employee is not abusing or exploiting his/her position as a humanitarian worker.

4.3.2. It is however reiterated that each and every standard in the Code of Conduct guarding against abusive or exploitative sexual relationships with beneficiaries will otherwise apply.

- 4.3.3. Sexual relations between beneficiaries and other categories of humanitarian workers, particularly international staff, are strongly discouraged.
- 4.3.4. Any humanitarian worker who finds himself or herself involved in a relationship with a beneficiary shall advise his or her head of agency or supervisor of the relationship.
- 4.3.5. The heads of all agencies party to this Code shall ensure that when informed of relationships between staff and beneficiaries, appropriate measures are taken to prevent the potential for abuse or exploitation.

V. CODE OF CONDUCT: A LIVING DOCUMENT

5.1. This Code of Conduct is intended to serve as a “living document”. It shall be revised so as to make it more responsive to changing circumstances, at the initiation of the signatory agencies and with their full agreement.

5.2. Upon coming into force, the Code shall be binding upon the agencies which will have actually signed it. At the same time, it shall remain open for signature by any other agency working directly or indirectly with the members of the CCSDPT.

VI. IMPLEMENTATION AND ADHERENCE

6.1. This Code of Conduct is signed for and on behalf of their respective agencies by the Heads of Agencies appearing below. By signing the Code, they hereby undertake:

6.1.1. That they have read, understood, and are in full agreement with the contents of the Code.

6.1.2. To disseminate the content and standards of the Code comprehensively within their respective agencies, and take all necessary steps to ensure implementation and adherence to the Code.

6.1.3. To create and develop an environment that prevents sexual abuse and exploitation, abuse of power, and corruption and promote adherence to the Code.

6.1.4. To prevail upon their respective staff, according to formats that they will develop accordingly, to personally sign the Code, thereby signifying their commitment to adhere to its provisions.

6.1.5. To disseminate the Code publicly and in the local languages understood by the staff and beneficiary communities.

6.1.6. To monitor the implementation of and adherence to the provisions of the Code within their respective agencies, and their staff.

6.1.7. To ensure that in every reported breach of the Code, the necessary investigative, administrative and disciplinary measures are taken decisively in accordance with their organizational policies.

6.1.8. All agency personnel remain accountable to the individual policies and Codes of Conduct of their respective agencies at all times and in all circumstances.