

PROVISIONAL
RELEASE

Handbook for the **Protection** of Internally **Displaced Persons**



Global Protection Cluster Working Group

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December 2007

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- World Food Programme (WFP)

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List of Abbreviations

International and Regional Legal Instruments

International Human Rights Law

CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)
CED	International Convention for the Protection of All Persons from Enforced Disappearances (2007)
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women (1979)
CMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)
CPD	Convention on the Rights of Persons with Disabilities (2006)
CPPCG	Convention on the Prevention and Punishment of the Crime of Genocide (1948)
CRC	Convention on the Rights of the Child (1989)
CRSS	Convention Relating to the Status of Stateless Persons (1954)
CRS	Convention on the Reduction of Statelessness (1961)
ICCPR	International Covenant on Civil and Political Rights (1966)
ICERD	International Convention on the Elimination of All Forms of Racial Discrimination (1965)
ICESCR	International Covenant on Economic, Social and Cultural Rights (1966)
Trafficking in Persons Protocol	Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Transnational Organized Crime (2000)
UDHR	Universal Declaration of Human Rights (1948)

Regional Human Rights Law

AmCHR	American Convention on Human Rights (1992)
AmDHR	American Declaration of the Rights and Duties of Man (1948)
AfCHPR	African [Banjul] Charter on Human and Peoples' Rights (1981)
AfCRWC	African Charter on the Rights and Welfare of the Child (1990)
ArCHR	Arab Charter on Human Rights, Council of the League of Arab States (1994)
Cairo Declaration	Cairo Declaration on Human Rights in Islam (1990)
ECHR	European Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights) (1950)

International Criminal Law

ICC Statute/ Rome Statute	Statute of the International Criminal Court (1998)
ICTR Statute	Statute of the International Tribunal for Rwanda (1994)
ICTY Statute	Statute of the International Tribunal for the Former Yugoslavia (1993)

International Humanitarian Law

CCW	1980 United Nations Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects.
Hague Convention IV	Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land (1907)
Hague Regulations	Regulations Respecting the Laws and Customs of war on Land annexed to Hague Convention (II) of 1899 and Hague Convention (IV) of 1907.

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INTRODUCTION

*Photo IOM/Sunil Srivastava 2006
Information session in South Darfur camp.*

Introduction to the Provisional Edition of the Handbook

In more than 50 countries around the world, some 24 million individuals are uprooted from their homes and displaced in their own country as a result of conflict or human rights violations.

Internally displaced persons, or “IDPs,” are part of the broader **civilian population** that needs protection and assistance because of conflict and human rights abuses. The focus on IDPs in this Handbook is not intended to encourage preferential treatment of IDPs to the exclusion of other populations at risk; but rather to improve the quality of the response developed for IDPs whose needs have, until recently, been inadequately addressed by the international humanitarian response.

Forced from their homes, IDPs also experience specific forms of deprivation, such as loss of shelter, and often face **heightened or particular protection risks**. These risks may include: armed attack and abuse while fleeing in search of safety; family separation, including an increase in the number of separated and unaccompanied children; heightened risk of sexual and gender-based violence, particularly affecting women and children; arbitrary deprivation of land, homes and other property; and displacement into inhospitable environments, where they suffer stigmas, marginalization, discrimination or harassment.

In the face of such risks, internally displaced women, men, girls and boys have to demonstrate a remarkable degree of resilience and strength, drawing on their own capacities to develop basic support mechanisms and seek protection.

Prevention of displacement and the protection of IDPs and **other affected populations**¹ within their own country are the responsibility of **national authorities**. Particularly in situations of armed conflict, IDPs may find themselves in territories over which State authority is absent or difficult to enforce. In such situations, prevention of displacement and the protection of IDPs are also the responsibility of non-State actors.

In those situations where States require support or where national protection is not ensured, a critical protection role falls to the **international community**. It has been difficult to address this “protection gap” not only because of the sensitivity of the subject within the country concerned, but also because of various gaps within the international framework.

Concerted efforts are also being made to address **institutional gaps** in humanitarian response, including in situations of internal displacement. The reform of the humanitarian system initiated in 2005 identified protection as a persistent gap and created institutional mechanisms to ensure that protection is a core component, and cross-cutting element of humanitarian response. The key mechanism introduced to help fill the gap is known as the “cluster” approach.

Although the critical test for any humanitarian response is what happens on the ground, until now there has been no comprehensive, practical guidance on how to operationalize protection in situations of internal displacement.

¹ In the context of internal displacement, “affected populations” have been defined as: “host communities where IDPs are living; host communities in areas of IDP return; and persons or communities at risk of displacement if their protection problems are not addressed” (Progress Report of the Cluster Working Group on Protection to the IASC Principals, 12 Dec 2005). Other affected populations may also include those who are unable to flee (i.e., those trapped by the fighting, those who cannot move into the “displacement zone” due to ethnic or other tensions, or because of illness, injuries, handicaps, etc.). Throughout this Handbook, operational guidance referring to IDPs should generally be understood to include not only IDPs but also affected populations.

Goals and objectives of the Handbook

This provisional edition of the Handbook is the result of **joint efforts by the staff of over 30 international organizations, most of which are members of the Global Protection Cluster**. This includes United Nations agencies, non-governmental organizations and intergovernmental organizations.

The handbook provides **operational guidance and tools** to support effective protection responses in situations of internal displacement.

Specifically, the Handbook seeks to:

- Ensure that staff are familiar with the core concepts, principles and international legal standards that form the framework for protection work;
- Assist staff in operationalizing these concepts, principles and legal standards and in carrying out their protection responsibilities;
- Improve understanding of the particular protection risks faced by internally displaced women, men, boys and girls of various backgrounds;
- Provide guidance on how, through a range of different activities, to prevent and respond to the protection risks faced by IDPs;
- Enhance staff skills for carrying out protection work; and
- Promote a consistent and well-coordinated protection response in different operations.

The focus of the Handbook is on the protection of IDPs and other **affected populations** in situations of internal displacement in **complex emergencies**. Much of the guidance provided may be relevant as well during natural disasters, when internal displacement and protection risks also often arise.²

Intended audience of the Provisional Edition

This Provisional Edition of the Handbook is primarily intended for use by staff, particularly field staff, of international organizations engaged in responding to internal displacement. This includes not only human rights and protection officers, but also humanitarian and development actors more broadly. Protection is a cross-cutting issue that *all* staff should address and promote.

Indeed, the Handbook should be a source of information and guidance for all partners in a protection response, including State authorities and civil society.

The **provisional edition of the Handbook will be field-tested worldwide for a period of one year, following its release in December 2007**. At the end of 2008, the final edition of the Handbook will be issued, reflecting any evolution in doctrine and practice and lessons learned from operational developments. It will also incorporate the contributions by colleagues currently working in the Field to protect and assist IDPs and other affected populations.

How to use the Handbook

The Handbook is divided into five parts. These five parts and their individual chapters are interconnected, but they can also stand alone as self-contained modules.

- Part I covers the **foundations of protection**. It sets out core concepts, approaches and humanitarian principles for protection work and provides an overview of the legal and institutional frameworks for the protection of IDPs.

² See also *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters* (IASC, 2006).

- Part II outlines **skills**, both professional and interpersonal, which are required to support protection work.
- Part III focuses on **building a protection response**, providing guidance on how to assess and analyse a protection situation; develop protection strategies for response; and monitor and evaluate protection programmes.
- Part IV provides more detailed information about key **protection activities** that contribute to an effective protection response, identifying the operational challenges that may arise and the principles that should guide our action.
- Part V provides guidance on **how to prevent, mitigate and respond to specific protection risks and rights violations** commonly faced by IDPs, suggesting actions for supporting IDPs to realize their rights and for the State to fulfil its protection responsibilities.
- Part VI focuses on **durable solutions** and the importance of having a solutions-oriented approach to protection. It is largely based on the *Framework for Durable Solutions* developed by the Brookings-Bern Project on Internal Displacement with the support and guidance of Representative of the Secretary General for the Human Rights of IDPs. Part VI provides practical suggestions for the application of this Framework in Field Operations.

The Handbook builds on a growing body of information on internal displacement and on existing tools and guidance materials on protection. It refers to other relevant resources for additional information in greater depth.

This Handbook also includes a list of abbreviations, and two annexes:

- Annex 1: The Guiding Principles on Internal Displacement
- Annex 2: When Displacement Ends: A Framework for Durable Solutions

Feedback on this Handbook and examples of field practices on protection are welcome at any time. Email us at: HQIDPHB@unhcr.org



Part I

FOUNDATIONS OF IDP PROTECTION

*Photo UNHCR / G.M.B. Akash / June 2006,
Young Biharis attend primary school in a government-run camp in Dhaka.*

The fundamentals of protection



Key message

Protection aims to ensure the full and equal respect for the rights of all individuals, regardless of age, gender or ethnic, social, religious or other background. This requires a common understanding of protection and the means by which it is achieved. This chapter provides a definition of protection, explains who internally displaced persons are and why they need protection and assistance, and outlines the key approaches and core principles that should guide and underpin all protection efforts.

1. What is protection?

Protection is defined as all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and spirit of the relevant bodies of law, namely human rights law, international humanitarian law and refugee law.¹

Protection can be seen as having three different dimensions:

- Protection as an **objective**
- Protection as a **legal responsibility**
- Protection as an **activity**

Protection is an objective, which requires full and equal respect for the right of all individuals, without discrimination, as provided for in national and international law. Protection is not limited to survival and physical security but covers the full range of rights, including civil and political rights, such as the right to freedom of movement and to political participation, and economic, social and cultural rights, including the rights to education and health.

Protection is a legal responsibility, principally of the State and its agents. In situations of armed conflict, that responsibility extends to all parties to the conflict under international humanitarian law, including armed opposition groups. Human rights, humanitarian and development actors play an important role as well, in particular when States and other authorities are unable or unwilling to fulfill their protection obligations.²

Protection is an activity because action must be taken to ensure the enjoyment of rights. The three types of protection activities can be carried out concurrently:

- *responsive* – to prevent or stop violations of rights;
- *remedial* – to ensure a remedy to violations, including through access to justice and reparations; and
- *environment-building* – to promote respect for rights and the rule of law.³

¹ This definition, which was originally developed over a series of ICRC-sponsored workshops involving some fifty humanitarian and human rights organizations, has been adopted by the IASC. See *Protection of Internally Displaced Persons*, Policy Paper Series, No. 2 (2000) and *Strengthening Protection in War: A Search for Professional Standards* (ICRC, 2001).

² Several international organizations, namely OHCHR, UNHCR, UNICEF and ICRC, have specific protection mandates. All UN and partner agencies however have a responsibility to integrate human rights into their work and to approach their work with due regard to protection issues. See *Renewing the United Nations: a Programme for Reform*, Report of the Secretary-General to the United Nations General Assembly (UN doc. A/51/950) and *Protection of Internally Displaced Persons* (IASC, 2000). See also Part I.3 of the handbook.

³ *Strengthening Protection in War*, 2001, p. 20 (ICRC, 2001).



In our work

Protection requires working with all relevant stakeholders, including populations at risk, local communities and the authorities, to:

- *prevent* violations of rights from occurring or recurring;
- *stop* ongoing violations;
- *provide remedies*, through reparation and rehabilitation, if violations have occurred; and
- *foster* an environment conducive to respect for the rights of women, men, girls and boys in accordance with the law.

2. Who are internally displaced persons?

All persons, including those who are internally displaced, are equally entitled to protection. As defined by the *Guiding Principles on Internal Displacement*,⁴ internally displaced persons are:

Persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human made disasters, and who have not crossed an internationally recognized State border.

Involuntary departure and the fact that the individual **remains within his/her country** are the two defining elements of an internally displaced person (IDP). The first element distinguishes IDPs from individuals who left their homes out of choice and could have otherwise safely remained where they lived.⁵ The second element explains why IDPs are not refugees. Refugees, by definition, are *outside* of their country of nationality or habitual residence.⁶ In other respects, however, both categories of displaced persons often face similar risks and deprivations.

The definition mentions some of the main causes of internal displacement, including **armed conflict, violence, violations of human rights and disasters**. This is not an exhaustive list; the phrase “in particular” means that it does not exclude the possibility that other situations might meet the two key criteria of involuntary movement within one’s country.

It is important to understand that the IDP definition is a **descriptive definition** rather than a legal definition. It simply describes the factual situation of a person being uprooted within his/her country of habitual residence. It does not confer a special legal status in the same way that recognition as a refugee does. This is not necessary for IDPs because, unlike refugees who require being formally recognized as such by the country of asylum or UNHCR under its mandate, IDPs remain entitled to all the rights and guarantees as citizens and other habitual residents of a particular State.⁷

The purpose of highlighting the situation of IDPs and working to enhance their protection is not to privilege IDPs over other groups; IDPs have the same rights as others in their country. They often experience many of the same risks as other civilians caught in conflict, who also are in need of protection. Yet, the experience of internal displacement also creates heightened as well as **distinct protection risks**. These particular risks need to be understood and addressed so that the rights of IDPs are protected *along with* those of other civilians.

⁴ See Annex 1: “Guiding Principles on Internal Displacement.”

⁵ It is important to keep in mind that persons who did not leave might face similar risks as those who left, but were simply unable to travel due to health reasons or because they were trapped in the conflict. Some might find it even more dangerous to move out of their places of origin because of tension with surrounding communities, or insecurity along the way.

⁶ A refugee is defined as a person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his/her nationality or habitual residence, and is unable, or owing to such fear, is unwilling to avail himself/herself of the protection of that country. See Art. 1 of the 1951 Convention Relating to the Status of Refugees.

⁷ Some countries do accord IDPs, or certain groups of IDPs, a status under national legislation. However, this does not affect the rights enjoyed by *all* internally displaced persons under international human rights and humanitarian law.

IDPs have been compelled to leave their homes and often cannot return because they face risks at their places of origin from which State authorities are unable or unwilling to protect them, because they might have been specifically prohibited to return, or because their homes have been destroyed or are being occupied by someone else. They also may face the risk of forced return to an area that is unsafe.

The **particular factors of internal displacement** that tend to heighten protection risks include:

- IDPs have lost their homes and, as a result, may be in need of shelter. In some cases they may be compelled to seek shelter in crowded camps or settlements, which can give rise to various protection risks.
- They have often lost access to their land and other property and are cut off from their normal livelihoods and sources of income. As a result they may suffer poverty, marginalization, exploitation and abuse.
- Access to adequate food, safe water and public services, such as education and health care becomes difficult, often leading to high levels of hunger, malnutrition and disease.
- Family and community-structures often collapse and family members become separated. Unaccompanied and separated children, single-headed households (in particular when headed by women or children), older persons and persons with disabilities are often at heightened risk of abuse, including sexual exploitation, child labour or forced recruitment into armed forces or groups.
- Identity documents often are lost, destroyed or confiscated in the course of displacement. As a result, IDPs often face difficulties in accessing public services, such as education and health care, limits on freedom of movement and heightened risk of harassment, exploitation or arbitrary arrest and detention.
- In many cases, IDPs are displaced into areas where they face marginalization, discrimination and hostility, are exposed to landmines or explosive remnants of war, or are targeted for abuse and attack.

3. Who is responsible for protecting internally displaced persons?

Primary responsibility for protecting internally displaced persons, and all persons within their own country, rests with the national authorities of the country. National responsibility is a core concept of any response to internal displacement. It is a fundamental operating principle of the international community and is routinely emphasized by governments themselves, as a function of their sovereignty.

Yet, it is sometimes the very governments responsible for protecting and assisting their internally displaced populations that are unable or even unwilling to do so, and might even be directly involved in forcibly uprooting civilians.

Even then, however, the **role of international actors is to reinforce, not replace, national responsibility**. This requires a two-pronged approach of encouraging States and other authorities to meet their protection obligations under international law while also supporting the development of national and local capacities to fulfill these protection responsibilities.

The Framework for National Responsibility identifies twelve steps that governments should take towards ensuring an effective national response to internal displacement.⁸ These are elaborated in detail in Part IV.4 and are summarized below.

⁸ See *Addressing Internal Displacement: Framework for National Responsibility*, The Brookings Institution-Bern Project on Internal Displacement, 2005.

National responsibility in situations of internal displacement

In addition to ensuring the protection of rights in accordance with international law, national responsibility in situations of internal displacement entails:

1. Preventing displacement and minimizing its adverse effects
2. Raising national awareness of the problem
3. Collecting data on the number and condition of IDPs
4. Supporting training on the rights of IDPs
5. Creating a legal framework upholding the rights of IDPs
6. Developing a national policy on internal displacement
7. Designating an institutional focal point on IDPs
8. Encouraging national human rights institutions to address internal displacement
9. Ensuring that IDPs participate in decision making
10. Supporting durable solutions
11. Allocating adequate resources to addressing internal displacement
12. Cooperating with the international community when national capacity is insufficient

In situations of armed conflict, all parties to the conflict, both State and non-State actors, have a responsibility to respect and ensure respect for international humanitarian law, including by providing protection and assistance to the civilian population.

4. Operationalizing protection

Effective field-based protection strategies are built around three common and inter-connected approaches:

- **Protection must be rights-based** (a rights-based approach);
- **Individuals and communities are active and equal partners in their protection** (a community-based approach);
- **Protection promotes full and equal respect for the human rights of all individuals**, without discrimination of any kind.

Use of these approaches is fundamental to ensuring that a protection perspective is integrated throughout all the different sectors of humanitarian response.

4.1. Protection is about realizing human rights (a rights-based approach)

Because protection is about respect for rights, it requires an approach grounded upon and geared towards the full and equal enjoyment of rights.

This way of working requires that we recognize individuals as **rights-holders** with legal entitlements to protection and assistance. Unlike “needs,” rights generate responsibilities to ensure the protection and well-being of individuals. The State and other authorities are **duty-bearers** with responsibilities to respect and protect individuals’ rights.

These rights and responsibilities are firmly rooted in international law, particularly human rights and international humanitarian law, and refugee law, where relevant.⁹

A rights-based approach means that all of our policies, programmes and activities:

- are based on rights, as provided in international law;
- further the realization of rights; and

⁹ Refugee law does not apply to the protection of internally displaced persons, although some refugee law principles are relevant, by analogy. The international legal framework for the protection of IDPs is discussed in Part I, Chapter 2.

- seek to strengthen the capacities of rights-holders (women, men, girls and boys) to claim their rights, and the capacities of duty-bearers (State and other authorities) to meet their obligations to respect, protect and fulfill those rights.

A rights-based approach can strengthen our work by anchoring it in a system of rights and corresponding obligations established by international law. By empowering people to claim their rights and strengthening the capacities of duty-bearers to fulfill these rights, a rights-based approach also promotes and strengthens the sustainability of our efforts.



In our work

Applying a rights-based approach in situations of internal displacement requires that we:

- Be familiar with international legal standards, that is rights and obligations, that underlie protection;
- Use rights as the basis for our activities, including situation analysis and participatory needs assessments, strategy development, protection activities and programme planning, design, implementation, monitoring and evaluation;
- Analyze why individuals or groups cannot enjoy their rights, including by examining underlying and structural obstacles, and barriers based on age, gender or diversity;
- Ensure that our policies, programmes and activities aim to support internally displaced women, men, girls and boys in enjoying their rights; and
- Strengthen the capacity and accountability of national and local authorities to meet their protection responsibilities.

While a “rights-based approach” to humanitarian action is a relatively recently coined expression, the concept behind it is based on decades-old principles. According to the Charter of the United Nations, one of the core purposes of the United Nations is to promote and encourage “respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion.” Human rights are therefore a concern that cuts across humanitarian and development activities, entailing a responsibility for all parts of the UN and NGOs to integrate human rights into their work.¹⁰

4.2. Individuals and communities are equal partners in protection (a community-based approach)

Internally displaced persons, like other civilians at risk, develop their own strategies to reduce exposure to and mitigate the effects of protection risks. Such coping mechanisms are based on local knowledge and build upon existing capacities and resources within the community. Experience has shown that for protection efforts to be effective and sustainable, they must be designed to recognize, support and strengthen the protection capacities of individuals and communities themselves.

A community-based approach¹¹ is a way of working that:

- ensures that women, men, girls and boys of all ages and diverse backgrounds are regarded and engaged as active partners in all aspects of our work;
- recognizes their resilience, capacities and resources; and
- mobilizes and builds on the capacities of communities to enhance their own protection.

By recognizing that all members of the community are active participants in decision-making, a community-based approach reinforces the dignity and self-esteem of people and promotes their empowerment. People are empowered when they are able to become informed and active agents in addressing their own situation.

¹⁰ UN Programme for Reform, 1997. See also *Frequently Asked Questions on a Human Rights-based Approach to Development Cooperation*, OHCHR, Geneva, 2006, p. 35.

¹¹ See *A Community-Based Approach in UNHCR Operations: Handbook*, UNHCR, forthcoming 2007.

This way of working requires a thorough understanding of the context of displacement, including the socio-economic context, gender roles, and power dynamics within the community as well as the role of other actors, such as armed groups or the host population. It seeks to understand the community's protection concerns and priorities and to identify its existing capacities to access and enjoy human rights.



In our work

Applying a community-based approach in situations of internal displacement requires that we:

- Understand gender roles, power relations and community dynamics (among different generations, among diverse groups, and between internally displaced persons and the local community) and how this affects their protection;
- Recognize the ways in which internally displaced persons enhance their own protection and enjoy their rights, and work to reinforce these efforts;
- Build an equal and active partnership with internally displaced women, men, girls and boys by ensuring that they participate in identifying and addressing protection risks and priorities, including through participatory assessment and in decision-making on programme design, implementation, monitoring and evaluation.

Our role as international humanitarian and development actors is to build or rebuild and strengthen the community's capacity to respond to its own concerns and to take decisions as to how best to address these concerns. We must recognize the temporary nature of our presence, our role as facilitators, and our limitations in capacities, resources and local knowledge.

Applying a community-based approach is widely recognized within the international humanitarian community as an essential element of humanitarian response, including in situations of internal displacement.¹²

4.3. Protection promotes full and equal respect for the human rights of all individuals, without discrimination of any kind (age, gender and diversity mainstreaming)

Conflict and displacement can affect individuals in different ways depending on factors such as age, gender, and ethnic, social, religious and different backgrounds. Certain groups of persons, including women, children, older persons and minorities, are often marginalized within communities and less represented in formal decision-making structures. As a result, their specific concerns are often overlooked in needs assessments and in programme planning.

Failure to acknowledge the particular risks faced by diverse members of a community not only results in a failure to address those concerns, but it might lead to actions that inadvertently increase these risks and reinforce discrimination and exclusion.

Incorporating diversity analysis into all aspects of our work is essential to understanding and addressing the different protection risks within a community.¹³

In practical terms, mainstreaming diversity involves:

- recognizing that, within a community, different members face particular inequalities, risks and needs, depending on their age, gender and social or other background;
- identifying and analyzing the different protection risks faced by women and men of different ages and backgrounds. This includes protection risks arising from their particular situation and the protection implications of our own activities; and

¹² *Guidance Note on Using the Cluster Approach to Strengthen the Humanitarian Response*, IASC, November 2006. A community-based approach also is part of the Terms of Reference for Sector Leads at the Country Level.

¹³ The IASC has highlighted the importance of mainstreaming age, gender and diversity into all aspects of humanitarian response, including into all sectors and clusters within the "cluster approach." See *Guidance Note on Using the Cluster Approach to Strengthen the Humanitarian Response*, IASC, November 2006.

- taking targeted action to address and prevent these risks and inequalities and to empower groups within the community to claim their rights.

4.3.1 Gender

The term “**gender**” refers to the socially constructed and assigned characteristics, roles and responsibilities of women and men in any given culture. These social characteristics are constructed on the basis of sex combined with other factors, such as age, religion, national, ethnic and social origin. Gender is not static; it responds to changes in the social, political and cultural environment.

Gender equality refers to the equal rights, responsibilities, treatment and valuation of women and men, and girls and boys. There is gender equality when each individual’s rights and opportunities are not dependent on being female or male. When there is gender equality, women’s and girls’ interests, needs and concerns shape political, social and economic decisions as much as do those of men or boys. All humanitarian agencies have a responsibility to mainstream a gender perspective into their work.¹⁴

Conflict and displacement can affect women and men, girls and boys, in different ways, and often result in changes in gender roles and power dynamics. Gender, too often perceived strictly as a “women and girls’ issue,” also relates to men and masculinity. A gender analysis will help identify not only the particular protection risks that women and girls face, but also those faced by men and boys.

Sexual violence and exploitation, which primarily targets women and children, has become one of the most disturbing and common features of contemporary armed conflict and displacement crises. Displaced women, girls and boys are often forced to take on different and/or additional responsibilities as a result of being separated from their families. During displacement, there is usually a dramatic increase in the number of women and children who head households and who, as a result, are at particular risk of rights violations. At the same time, because of existing, even exacerbated, inequalities within the community, women and children might have even less social, economic and political power and be less represented in formal leadership structures, with the result that their rights and particular needs often are overlooked.

4.3.2 Age

Displacement also affects individuals in different ways, depending upon their age. Children, adolescents and older people are often excluded from formal decision-making structures, with the result that the specific risks that they face are not taken into account.

- **Children**, generally defined as persons under 18, are exposed to a range of risks when forced to flee from their homes. Children, in particular when separated from their families, are often at risk of neglect, abuse or exploitation, forced recruitment into armed forces or groups, child labour, deprivation of access to food, shelter, education and health care, and other violations of their rights. Such factors seriously threaten their well-being and undermine their cognitive, emotional and social development.
- **Adolescents**, generally considered to be children aged 10 and older, face distinct risks compared with younger children but are often neglected within displaced communities. Seen as young adults, they are at high risk of sexual violence or exploitation and forced recruitment into armed forces or groups. When separated from parents or adult care-takers they often take on the daunting responsibility of caring for younger siblings but may lack sufficient resources and support to manage a household.

¹⁴ ECOSOC, Agreed Conclusions on Gender Mainstreaming, 1997/2. These Conclusions identify principles for mainstreaming gender equality throughout the UN system and contain specific actions that should be implemented by UN agencies in order to institutionalize gender mainstreaming. Security Council Resolution 1325 (2000) on the protection women in armed conflict as well as resolutions on protecting children in armed conflict, call upon all States, UN actors and other agencies to mainstream a gender perspective in their work.

- **Older persons** often suffer social and economic hardship as a result of displacement, in particular where they become separated from their families and other support structures. In some cases, they may have been unable to flee along with other members of their family. They may also be at increased risk of violence, exploitation or abuse and often lose their traditional role or standing within the community.

4.3.3 Diversity

In addition to gender and age, other factors might lead to significant inequalities and place persons at risk. These include ethnicity, language, culture, religion, disability, family status and socio-economic status.

Other differences, such as between newly-displaced and long-term displaced, between internally displaced persons in camps compared with those in urban settings, and between internally displaced persons and the local host community, might also arise.



In our work

Mainstreaming age, gender and diversity in situations of internal displacement requires that we:

- Understand how conflict and internal displacement affects individuals of different ages, gender and backgrounds differently, and how this affects the relationships between them and the realization of their rights;
- Incorporate age, gender and diversity analysis into assessments, analysis, strategy development, design, implementation and monitoring of protection programmes and activities;
- Work in partnership with internally displaced women, men, girls and boys to identify protection risks faced by different members of the community, and to prevent and address such risks through targeted action to empower disadvantaged groups to enjoy their rights;
- Work towards the elimination of violence in all its forms, including sexual and gender-based violence, in close collaboration with internally displaced persons, local communities, civil society and the national government; and
- Ensure that our strategies, programmes and activities do not inadvertently lead to or reinforce discrimination or exclusion of different groups, but rather promote equality and rights for all.

Communities, culture, tradition and rights

The universality of human rights often is challenged on the grounds that local culture and tradition should take precedence. For example, some humanitarian workers have resisted taking action to promote and protect the rights of women and girls on the grounds that doing so “would interfere with local culture.”

However, cultural beliefs are not homogenous and cultures are not static; they are continually being renewed and reshaped. Cultural change is the result of many factors, including conflict and displacement. Change also results from deliberate efforts to influence values through revisions of law or government policy.

International law provides that States are obliged to take measures to modify cultural patterns of conduct when this is required to eliminate customary and other practices that are based on the superiority or inferiority of either sex or on stereotyped roles for women and men. When a tradition or practice is considered by the United Nations’ relevant human rights organ to be directly contrary to an international human rights instrument or standard, humanitarian staff is to be guided by the relevant human rights instrument or standard, and work to promote its application.

As humanitarian actors, we have an obligation to respect and promote the rights of all. Working with the community is critical to ensure respect for the rights of all of its members. Because many human rights violations occur within the community, and because individuals and groups may be stigmatized or isolated by their communities based on their age, gender and diversity, it is only by *working with* communities that we will be able to ensure their protection.

5. The core principles of humanitarian action

Several core principles guide all humanitarian action and should be respected by all staff and partners at all times. Respect for these principles is critical for the integrity of our work and the credibility and safety of humanitarian operations.

- **Do No Harm:** Action, as well as inaction, can have unintended negative consequences. We must ensure that our actions and interventions (or lack thereof) do not adversely affect individuals and their communities, our partners or colleagues, or expose them to harm. Before taking action, we must anticipate the consequences and assess any potential risk factors, and take measures to eliminate and minimize such risks.
- **Humanity and the humanitarian imperative:** The prime motivation and purpose of our work is to save lives and to prevent and alleviate human suffering, wherever it is found. Individuals must be treated humanely, with dignity and respect, and have a full and equal right and ability to receive humanitarian assistance.
- **Impartiality:** Humanitarian action must be taken without any adverse distinction based on nationality, ethnic origin, religion, class, political opinion or other ground. Priorities for humanitarian action must be determined on the basis of rights and needs alone. The principle of impartiality therefore establishes two clear rules of conduct for humanitarian work: non-discrimination and proportionality according to need.
- **Independence:** Humanitarian action must be free from interference, whether political, ideological, economic or military.
- **Neutrality:** Humanitarian action must not take or be perceived to take sides in an armed conflict or other dispute. The principle of neutrality does not prevent us from taking action, nor does it provide an excuse for inaction; indeed, failure to take action could even amount to taking sides. Rather, it provides important guidance on *how* we should act, by considering how our actions might be interpreted by others. We therefore need to be aware of our own prejudices as well as the ways in which aid can be manipulated, diverted or exploited for political or military purposes. Our actions and activities must be transparent, balanced and based on objective criteria.

In addition to the core principles, several key considerations should guide us in our work.

- **Confidentiality:** Respecting confidentiality and guaranteeing the privacy and security of individuals, their families and wider communities must be of paramount consideration at all times. Breach of confidentiality or careless handling of information can have serious consequences for persons of concern as well as for our partners, our colleagues and even the humanitarian operation as a whole. We must always assess potential risk factors and seek informed consent for the gathering and use of information. Vigorous data-protection methods must be in place to guarantee the security of recorded information.
- **Sensitivity:** Many internally displaced persons have experienced violence, abuse and other forms of personal harm. We should be sensitive to their suffering, treat them with respect and dignity, and avoid creating more harm by requiring them to relive painful experiences through repeated interviewing. We must also be careful to avoid creating false hopes and unrealistic expectations about what protection and assistance we can offer; failure to do so risks increased anxiety and hopelessness, and might even put people at greater risk by giving them a false sense of security.
- **Strengthen local capacities:** The role of humanitarian actors is not to substitute, but rather to support and strengthen, local capacities: both the capacity of individuals to claim their rights and the capacity of States and other authorities to fulfill their responsibilities to ensure protection of these rights. To this end, humanitarian actors should identify and work to strengthen effective local coping strategies and protection mechanisms.

- **Understand the context**, including as it is perceived by others: To ensure that we “do no harm” and act in an impartial, independent and neutral manner, it is essential that we have a sound understanding of the country, the culture and the communities in which we work. This must include an awareness of the political agendas, interests and perceptions of all those with whom we work. Information must come from a wide range of sources and be verified to ensure that we gain an objective picture of the situation.
- **Professionalism**: Our actions and activities must be consistent with and guided by the highest standard of personal and professional integrity. In particular, we need to ensure that our conduct, and that of our colleagues and partners respects the dignity and worth of all women and men, girls and boys of concern; that it is consistent with national laws and customs; and that it respects international human rights and humanitarian law standards. Any form of sexual abuse or exploitation, including entering into sexual relations with a beneficiary or exchanging aid for sexual favours, is unlawful and amounts to gross misconduct.



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The legal framework



Key message

Protection is about ensuring that all women, girls, boys and men are able to enjoy their rights on an equal basis, in safety and dignity, including in times of internal displacement. National laws constitute the primary legal framework for protection activities, and should reflect a State's international legal responsibilities. An understanding of the rights of IDPs and the legal obligations of States and other authorities under international law is therefore essential when working within domestic legal systems.

This does not mean that one must have the specialist knowledge of a lawyer: in fact, protection often requires non-legal skills and practical initiatives. Protection efforts nonetheless must be anchored in national and international law, and be based on rights.

This chapter provides an overview of the legal framework and gives guidance how that framework can be mobilized to support and strengthen protection.

1. How international law is relevant to our work

International law sets out the rights of every individual and the responsibility of States and other authorities to ensure the protection of these rights, and is essential to carrying out protection activities at the national and international level. When working within domestic legal systems and alternative dispute resolution mechanisms, international law provides clear and objective criteria for protection, that can help to:

- Assess to what extent human rights are being respected and identify the risks or obstacles that individuals face in exercising their rights;
- Clarify the responsibility of the national authorities and the actions that must be taken to fulfill that responsibility;
- Develop a sound operational response to humanitarian crises, using rights- and community based approaches that strengthen the capacity of individuals to protect themselves;
- Provide a basis for advocacy, awareness-raising, training, capacity-building and other similar activities;
- Guide our own activities, conduct, and interactions with populations of concern.

What is international law?

International law is the body of law which governs the conduct of and relations between States. International law is derived from two primary sources: international treaties and customary law.

- **International treaties** are agreements between States. A treaty is legally binding on all States that have agreed to be bound by it, for instance by way of ratification or accession. A treaty can also be known as a covenant, convention, charter or protocol.
- **Customary international law** or **custom** results from a general and consistent practice of States followed out of a sense of legal obligation. It is binding on all States, unless a State has persistently objected to the practice.

In addition, international law contains **peremptory norms** (*jus cogens*) which are accepted and recognized by States as norms from which no derogation can ever be permitted. These include, for instance, the prohibition against genocide, slavery and racial discrimination. Resolutions of the UN Security Council are also binding on States when adopted under Chapter VII of the UN Charter. Resolutions and declarations of States, such as those adopted in the UN General Assembly and the UN Human Rights Council, although non binding, can be important normative statements and might even provide an indication of emerging international custom.

2. The rights of internally displaced persons

Internally displaced persons are entitled to enjoy, equally and without discrimination, the same rights and freedoms under international and national law as do other persons in their country. International law does not specifically address the plight of internally displaced persons, but this does not mean that they are not protected under the law. In fact, the following three bodies of law provide a comprehensive legal framework for protection in all situations of internal displacement, including during armed conflict:

- **international human rights law;**
- **international humanitarian law;** and
- **international criminal law.**

As citizens or habitual residents¹ of their country, IDPs remain entitled to full and equal protection under the State's **national law**, which should be compatible with the State's obligations under international law.

The challenge for international agencies, NGOs, and States has been to identify the rights and guarantees dispersed in the rich body of international law that respond to the particular needs and protection risks that arise during displacement.

Internally displaced persons are entitled to enjoy, equally and without discrimination, the same rights and freedoms under international and domestic law as do other persons in their country.

The **Guiding Principles on Internal Displacement**² bring together in one document the main rules of international law, drawn from international human rights law and international humanitarian law, and, by analogy refugee law,³ that are relevant to protection in situations of internal displacement. The Guiding Principles set out the rights of IDPs and the responsibilities of States and other authorities towards them. To fully understand and most effectively use the Guiding Principles, it is important to situate them within the broader international legal framework.

3. International human rights law

Human rights are freedoms and entitlements that *every* individual should enjoy.

International human rights law, which consists of both customary and treaty law, guarantees these rights and obliges States to respect, protect and fulfill the human rights of all persons without discrimination of any kind, such as on the grounds of age, gender, ethnic origin, language, religion, political or other opinion, national or social origin, property, birth or other status, including on the grounds of being or having been internally displaced.

¹ Internally displaced persons are often but are not necessarily citizens of the country in which they are displaced. They can also be habitual residents, which for instance can include stateless persons (on statelessness see chapter 5.1).

² Prepared by the Representative of the UN Secretary-General on Internally Displaced Persons, at the request of the UN General Assembly and UN Commission on Human Rights, UN Doc. E/CN.4/1998/53/Add.2. Reproduced in Annex I.

³ Refugee law, which applies to persons fearing persecution who are displaced *outside* of their country, does not directly apply to IDPs. However, given its focus on issues arising during displacement, some of its principles are instructive by analogy, in particular that of *non-refoulement*, the core principle of international refugee law, which prohibits forcible return of refugees to a place where their lives or freedom would be at risk. In fact, this principle has its basis in human rights law, particularly the rights to freedom of movement, life, liberty, and protection against torture or cruel, inhuman and degrading treatment. On these grounds, IDPs similarly have the right to be protected against forcible return or resettlement to a place where their life, safety, liberty and/or health would be at risk.

3.1 Key human rights instruments

The **Universal Declaration on Human Rights (UDHR)** of 1948, the first human rights instrument developed by the United Nations, establishes the main civil, political, economic, social and cultural rights to which all persons are entitled, without discrimination of any kind. Although not a binding instrument in itself, many of its principles constitute customary law and/or have been incorporated into treaties, thus gaining binding force.

Building upon the UDHR and incorporating its principles into legally binding instruments are two Covenants that, together with the UDHR, constitute what is regarded as the “International Bill of Rights.” These are:

- **International Covenant on Civil and Political Rights (ICCPR)** and
- **International Covenant on Economic, Social and Cultural Rights (ICESCR).**

Several additional instruments reinforce the protection of human rights relating to:

- **particular issues**, such as torture or racial discrimination, or
- **specific groups of persons** who may face particular obstacles to the full and equal enjoyment of their rights, including women, children and indigenous persons.

Although none of these instruments specifically addresses internal displacement, they do cover a range of risks that IDPs often face and reinforce protection for particular groups of persons who tend to be disproportionately affected by displacement (see Table 1).

Protection of human rights is also reinforced in a number of **regional human rights instruments** (see Annex 1 at the end of the chapter).

Many human rights are also part of **international customary law**. Norms of customary international law include, for example the rights to life, freedom from torture, freedom from discrimination on grounds of gender, race or ethnic origin, freedom from slavery, and freedom from genocide – all of which also are affirmed in international conventions.

States have the duty to respect customary international human rights law as well as all those human rights treaties that they have committed themselves to implement. They must ensure that their domestic laws, policies and practices are consistent with these obligations.

DO YOU KNOW that you can find the text of all international human rights instruments online? Go to the link below to find them:
<http://www2.ohchr.org/english/law/>

DO YOU KNOW which international human rights instruments the State in which you work has committed itself to respect? You can find out at:
<http://www.ohchr.org/EN/Countries/>

Table 1: Overview of selected international human rights instruments

Name	Description
Universal Declaration of Human Rights 1948 (UDHR)	Worldwide instrument setting out the basic human rights of all persons on the basis of equality and non-discrimination.
International Covenant on Civil and Political Rights 1967 (ICCPR)	Sets forth a broad catalogue of civil and political rights, including the rights to life, physical integrity, recognition before the law, political participation, freedom of movement and choice of residence, and protection of the family.
International Covenant on Economic, Social and Cultural Rights 1967 (ICESCR)	Sets out economic, social and cultural guarantees, including the rights to adequate food, shelter, clothing, health care, an adequate standard of living, and guarantees concerning work, social welfare, education and participation in cultural life.
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984 (CAT)	Defines and prohibits torture under all circumstances. Stipulates that States cannot transfer a person to another State if there are grounds for believing that s/he will be tortured (principle of <i>non-refoulement</i>).
International Convention on the Elimination of All Forms of Racial Discrimination 1965 (CERD)	Prohibits racial discrimination: when a person or group is treated differently because of race, colour, descent, national origin or ethnic origin with the aim or effect of denying their human rights and fundamental freedoms.
Convention on the Prevention and Punishment of the Crime of Genocide 1948	Defines genocide as acts committed with the intent to destroy, in whole or in part, a national, ethnic, racial or religious group, and declares it as a crime, whether committed during peacetime or war.
Convention on the Elimination of All Forms of Discrimination against Women 1979 (CEDAW)	Sets a framework for national action for ensuring women enjoy, on an equal footing with men, their rights in all fields, including employment, education and administration of property, and for ensuring the protection of women, especially against threats to their physical safety and against rape and sexual exploitation.
Convention on the Rights of the Child 1989 (CRC), together with: • Optional Protocol on the sale of children , child prostitution and child pornography 2000 • Optional Protocol on the involvement of children in armed conflict 2000	A comprehensive code to protect the rights and best interests of children (under 18 years of age). Obliges States to take measures to ensure protection, care, psychological recovery and social reintegration of children affected by armed conflict, including unaccompanied or separated children. The optional protocol on the involvement of children in armed conflict prohibits compulsory recruitment and direct use in hostilities of persons under 18.
Convention on the Rights of Persons with Disabilities 2006 (CPD)	Reaffirms human rights and emphasizes their importance for persons living with disabilities. Also provides guidance to States on ways to ensure that those with disabilities, including survivors of landmines and ERW, can exercise their rights on a full and equal basis with others.
International Convention for the Protection of all Persons against Enforced Disappearances 2006 (CED)	Defines and prohibits enforced disappearance under any circumstances and obliges States to prevent such acts, to prosecute and punish or extradite those responsible, and provide reparations for victims and their families.
Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO Convention No. 182) 1999	Obliges States to take all necessary measures to eliminate the worst forms of child labour, such as slavery, trafficking, prostitution or forced labour, including recruitment of children (under 18 years) for use in armed conflict.

International Convention on the Protection of all Migrant Workers 1990 (CMW)	Provides a framework for the protection of the human rights of migrant workers during all stages of the migration process; before departure, during transit and in the country of employment.
Indigenous and Tribal Peoples (ILO Convention No. 169) 1989	Sets a framework for ensuring indigenous and tribal peoples enjoy their rights on an equal footing with other persons. Specifically addresses the issue of relocation of peoples, establishing conditions and guarantees to be fulfilled for this to be lawful.
The text of these and other instruments is available online at www2.ohchr.org/english/law/	

3.2 The responsibility of the State

States have a responsibility to ensure the full and equal enjoyment of human rights of all individuals on their territory or under their jurisdiction. This duty extends to all agents of the State, including the military and the police, and all public authorities, whether at the national, regional or local level.⁴

This responsibility has three dimensions: to **respect, protect and fulfill human rights**.

- The **duty to respect** requires the State to ensure that all agents of the State act in compliance with human rights law and refrain from any act that might interfere with or impair the exercise of rights. As an example, the State must not restrain freedom of movement: people must be allowed to flee to safer areas within or outside the country and IDPs must be able to move freely in and out of camps and settlements.
- The **duty to protect** obliges the State to take all necessary measures to prevent or put a stop to any violations of rights by third parties, including other individuals or groups. The State must also investigate, prosecute and punish violations of rights and ensure that victims/survivors have access to an adequate and effective remedy under domestic law. As an example, if the State is aware, or reasonably should have been aware, that women are being raped or that children are being recruited into a guerilla group, but does not take action to prevent and put a stop to such acts, it would have failed to fulfill its duty to protect.
- The **duty to fulfill** requires the State to take all possible measures to ensure that individuals under its jurisdiction are able to exercise their human rights. This requires the State to put in place a legal and administrative framework that respects human rights and build national capacity to support the implementation of rights. As an example, ensuring the right to a fair trial requires that an effective judicial system be put in place and ensuring the right to freedom from torture requires that police and prison guards are adequately trained and supervised. In other words, to ensure the realization of rights, a State must often invest its resources.

Many countries experiencing conflict and displacement have significant resource constraints. Human rights law recognizes that States with very limited resources might not have the capacity to ensure full realization of certain economic, social and cultural rights. However, a State cannot use a lack of resources as an excuse to do nothing. A State is obliged to take steps “to the maximum of its available resources, with a view to achieving progressively the full realization” of such rights.⁵ It must:

- at a minimum, ensure access to rights essential to survival, that is, food and water, basic shelter, medical services and sanitation; and
- request international assistance when State resources are insufficient.

⁴ For a more detailed discussion on State’s obligations under international human rights law see e.g. General Comment No. 31(80) of the Human Rights Committee on the nature of the general legal obligation imposed on States Parties to the Covenant (CCPR/C/21/Rev.1/Add.13).

⁵ ICESCR, Article 2(1). For further discussion see e.g. General Comments of the Committee on Social, Economic and Cultural Rights No. 12(1999) on the right to adequate food (E/C.12/1999/5) and No. 14(2000) on the right to the highest attainable standard of health (E/C.12/2000/4).

Although human rights instruments are not formally binding on **non-State actors**, the latter can be expected to uphold the values that underpin these instruments.⁶

Can human rights be restricted?

Some human rights instruments allow States to restrict or limit the effects of certain rights for specific purposes, such as to protect other rights and freedoms. Such restrictions are subject to strict conditions. They must always be provided for by law and be necessary and proportionate to achieve a legitimate aim, such as to protect national security or public order, safety, health or morals, or the rights and freedoms of others. Restrictions must be consistent with other human rights, including that of non-discrimination, and with the State's other international legal obligations, including international humanitarian law, where applicable.

Can human rights be suspended?

The duty of the State to respect, protect and fulfill human rights applies **at all times**, including during armed conflict and disasters.

In certain circumstances, such as during a declared **state of emergency**, the State may temporarily derogate from (suspend) certain rights. Such derogations are exceptional measures that are subject to strict requirements. There must be an actual or imminent danger that threatens the physical safety of the population or the political independence or territorial integrity of the State. Any derogation of rights must not go beyond what is necessary to address this danger; must not last longer than required by the circumstances; and must not be inconsistent with the State's other obligations under international law. In addition, such measures may never be discriminatory, that is, applied solely to members of a particular race, religion, ethnic, sex, linguistic or other group.

However, a **number of human rights can never be suspended**, whatever the situation, including in armed conflict. In addition to the principle of non-discrimination, these include:

- the right to life,
- the prohibition of genocide,
- freedom from torture and cruel, inhuman and degrading treatment or punishment,
- freedom from slavery,
- freedom of thought, conscience and religion,
- the right to due process of law, and
- the prohibition of punishment for any act that was not a crime when the act was committed.⁷



In our work

As a general rule, human rights law applies equally in times of peace and war. While a State can temporarily suspend the fulfillment of certain rights during war or other public emergency it can only do so to a limited extent and subject to strict conditions. National authorities should be encouraged to continue to respect human rights at all times. Where rights have been lawfully suspended we can continue to monitor and advocate for respect of those rights which cannot be suspended.

⁶ While human rights law applies primarily to States, non-state actors, in particular when in charge of territory, are increasingly being seen as having an obligation to respect and protect human rights. In some cases, such actors have expressly agreed to be bound by human rights law, for instance when concluding cease-fire and peace agreements. Depending on the context it may thus be possible and appropriate to undertake human rights advocacy with non-state actors.

⁷ See e.g. Article 4(2) of ICCPR. Some regional treaties, such as the American Convention on Human Rights (ACHR), contain a more extensive list of non-derogable rights, including the rights of the child and of the family right to juridical personality, the rights to a name, nationality and to participate in government.

3.3 Monitoring respect for international human rights law

There are several mechanisms charged with monitoring and encouraging State compliance with human rights law at the international, regional and national levels. At the international level, the UN treaty-monitoring bodies and the “Special Procedures,” created by the UN Human Rights Council, are of particular importance.⁸

3.3.1 UN treaty-monitoring bodies:

For each of the main human rights treaties, there is a corresponding committee, composed of independent experts, charged with monitoring State compliance with the treaty.⁹ In general, the Committees fulfill this role in three ways:

- by examining State reports and issuing concluding observations that outline the main concerns and provide recommendations to the State;
- by issuing general comments that provide guidance on the interpretation of particular rights; and
- by examining individual complaints of alleged violations of human rights, subject to the consent of the State to do so.¹⁰ The treaty-monitoring bodies have been devoting increasing attention to the obstacles that impede the enjoyment of human rights during internal displacement.



In our work we can ...

- Consult the treaty-monitoring reports for the country where we work, in particular the recommendations for improving respect for human rights, including those of IDPs;
- Promote, monitor and support follow-up to the recommendations, including by strengthening the State’s capacity, through training, to respect human rights; and
- Provide information about protection concerns when the State report is reviewed (your office might have a focal point for this).

The treaty-monitoring reports are available at www.universalhumanrightsindex.org.

3.3.2 UN Human Rights Council’s Special Procedures:¹¹

A whole network of independent human rights experts has been appointed by the UN Human Rights Council to examine, monitor, advise and publicly report on particular human rights themes or country situations.

- **Thematic experts** cover a range of issues relevant to the protection of internally displaced persons, such as: violence against women, minority issues, the rights of indigenous peoples, and the rights to education, to adequate housing, to food, and to physical and mental health. One mandate specifically focuses on promoting the rights of internally displaced persons (see next page).
- **Country-specific experts** address particularly serious situations of human rights violations. Such situations almost inevitably include large numbers of internally displaced persons. Country situations currently covered include: the Democratic Republic of Congo, Myanmar, Somalia, and the Sudan.

⁸ For more guidance on how you can make use of these mechanisms to support your efforts to protect the rights of IDPs see the Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates, Brookings-Bern Project on Internal Displacement, 2006. Available at www.brookings.edu/projects/idp/2006_guidebook.aspx

⁹ The UN human rights treaty-monitoring bodies are: the Human Rights Committee (ICCPR), the Committee on Economic, Social and Cultural Rights (CESCR), the Committee against Torture and other forms of Inhuman or Degrading Punishment (CAT), the Committee on the Elimination of Racial Discrimination (CERD), Committee on the Elimination of Discrimination against Women (CEDAW), the Committee on the Rights of the Child (CRC), and the Committee on the Protection of the Rights of All Migrant Workers and Members of their Families (CMR).

¹⁰ Specifically: the HRC, CERD, CAT and CEDAW, though the procedural requirements vary. For guidance, see <http://www.ohchr.org/english/bodies/petitions/index.htm>

¹¹ For more information on the Special Procedures, see <http://www.ohchr.org/english/bodies/chr/special/index.htm>

A Global Advocate for IDPs: The Representative of the Secretary General on the Human Rights of Internally Displaced Persons, who reports to the UN Human Rights Council and the UN General Assembly, engages in dialogue and advocacy with governments and other actors concerning the rights of IDPs, and works to strengthen the international response to internal displacement. Activities include:

- Promoting the rights of IDPs as articulated in the *Guiding Principles on Internal Displacement*;
- Engaging governments and other actors on specific situations of internal displacement and the human rights of IDPs, including by undertaking **country visits**; and
- Sponsoring **national and regional seminars and undertaking research on issues related to internal displacement**.

The reports and recommendations are available at www.ohchr.org/english/issues/idp/index.htm



In our work we can ...

- Consult reports by Special Procedures that address the human rights situation in the country where we work. These provide valuable insight into the range of protection concerns and can assist in developing a protection strategy;
- Provide information to specific country and thematic experts. In response, they might send a written communication to the State concerned, conduct a country mission and raise the issue directly with national officials, make a public statement, and/or report on the issue to the UN Human Rights Council and/or General Assembly;
- Seek technical guidance and advice, as needed, from Special Procedures on issues related to their mandate, such as on national legislation;
- Suggest a country mission by a Special Procedure to examine and discuss the human rights situation with national authorities and other stakeholders, including IDPs, NGOs, and national human rights institutions;
- Disseminate the recommendations (which might be directed not only to States but also to non-State actors and UN agencies) among relevant stakeholders, including the government, civil society, IDP associations, international agencies, and donors;
- Promote, monitor and support follow-up to the recommendations, including by strengthening the State's capacity, through training, to respect human rights.

The reports of the Special Procedures are available at www.universalhumanrightsindex.org

At the **regional level**, in Africa, the Americas and Europe, there are also human rights monitoring mechanisms that provide important protection, especially since rights can be enforced in regional human rights courts (see Annex 1 at the end of the chapter). Regional mechanisms have become increasingly engaged in addressing human rights issues in situations of internal displacement and in protecting the rights of IDPs.

At the **national level**, national courts and human rights institutions have a critical role to play in providing a channel for individuals to claim their rights. These institutions also can work to ensure that domestic legislation, policies and programmes respect and protect human rights, including during situations of internal displacement.

4. International humanitarian law

In situations of armed conflict, international humanitarian law comes into effect together with human rights law. Also known as the law of armed conflict or the law of war, IHL aims to limit human suffering in times of armed conflict. This body of law:

- **protects persons who do not, or no longer, take part in hostilities**, namely civilians, prisoners of war, and sick, wounded or shipwrecked combatants; and
- **regulates the method and means of warfare** between parties to a conflict, such as by prohibiting particularly barbarous weapons and tactics, including the use of chemical

and biological weapons, military attacks on civilian targets and “indiscriminate attacks” that strike military objects and civilians without distinction.

IHL applies **in all situations of armed conflict**, both **international conflict** (between States) and **non-international conflict** (between a State and a non-State actor, or between two or more such actors). It is binding on **all parties to an armed conflict**: States, their armed forces and non-State armed groups, whether these are insurgent groups opposing the State or groups such as paramilitary groups supported by the State.

Because some human rights can be temporarily limited or suspended during armed conflict, the protection provided by IHL is particularly important. The more specific rules of IHL also assist in interpreting applicable human rights principles in situations of conflict. For example, evacuations of civilians on grounds of military necessity that are permissible under IHL are a legitimate limitation of the right to freedom of movement under human rights law.

4.1 Key instruments of IHL

The core instruments of international humanitarian law are the four **Geneva Conventions of 1949** and their **two Additional Protocols of 1977**.¹² Many of the key principles contained in these instruments also constitute customary international law, which means that they are automatically binding in *all* situations of armed conflict and on *all* parties to a conflict.

Type of conflict	Description	International humanitarian law applicable
International armed conflict	Armed conflict between two or more States	<ul style="list-style-type: none"> • Customary law • The four Geneva Conventions, in particular the Fourth Convention on Protection of Civilians • Additional Protocol I to the Geneva Conventions
Non-international armed conflict	Armed conflict between the State and a non-State actor, or between two or more such actors	<ul style="list-style-type: none"> • Customary law • Article 3 common to the Four Geneva Conventions • Additional Protocol II to the Geneva Conventions

In addition, several important treaties prohibit or regulate the use of certain weapons, such as the **Mine Ban Treaty** and the **Conventional Weapons Convention** and its Protocols.

4.2 Protection of Civilians: Key principles of IHL

Fundamental to international humanitarian law is the distinction between the **civilian population**, persons who do not take a direct part in hostilities, and **combatants**. The parties to a conflict must at all times distinguish between the civilians and combatants, in order to spare the civilian population and civilian property. The civilian population shall not be the object of attack; attacks shall be directed solely against military objectives.

Internally displaced persons, provided they are not taking a direct part in hostilities, are entitled to the same protection under IHL as any other civilians.

¹² The text of these instruments is available at: www.icrc.org. In 2006, the Geneva Conventions achieved universal ratification, meaning that every State in the world is now a party to, and therefore has committed itself to respect, these instruments.

Key Principles of IHL

Parties to the conflict must distinguish at all times between combatants/fighters and military objects, on the one hand, and civilians and civilian property on the other. Any attacks must be directed only against military objects and all feasible measures must be taken to protect civilians from the indiscriminate effects of hostilities.

The following acts are prohibited at all times:

- targeted or indiscriminate attacks against civilians or civilian objects;
- starvation of civilians as a method of warfare, and attacking, destroying, removing or rendering useless any objects indispensable for the civilian population's survival;
- reprisals or collective punishments against civilians;
- using civilians to shield military objectives from attack or to shield, favour or impede military operations;
- acts of violence intended to spread terror;
- using weapons that are inherently indiscriminate, cause superfluous injury or unnecessary suffering, or cause wide-spread, long-term and severe damage to the environment;

Principles of humane treatment:

- Persons who do not, or have ceased to, take part in hostilities must be treated humanely and protected against violence to life, health and physical or mental well-being, including murder, mutilation, torture and cruel, humiliating or degrading treatment;
- Rape, enforced prostitution and any form of indecent assault as well as sexual slavery, exploitation and abuse are prohibited in all circumstances and at all times;

Forced displacement:

- Unless essential for the security of civilians or imperative military reasons, parties to an international armed conflict may not deport or forcibly transfer the civilian population of an occupied territory. Parties to a non-international armed conflict may not order the displacement of the civilian population;
- Displaced persons have a right to voluntary return in safety to their homes or places of habitual residence as soon as the reasons for their displacement cease to exist.
- States may not deport or transfer parts of their own civilian population into a territory they occupy;

Assistance and basic living conditions:

- All parties to the conflict must grant and facilitate the unimpeded passage of relief assistance necessary for the survival of civilians;
- All possible measures must be taken so that displaced civilians receive satisfactory conditions of shelter, hygiene, health, safety and nutrition;

Individuals and groups with specific rights or needs:

- The specific protection, health and assistance needs of women must be respected;
- Children are entitled to special respect and protection. Children under 15 must not be recruited into armed forces or armed groups or be allowed to take part in hostilities, whether directly or indirectly;
- Older persons and persons with disabilities or other health problems are entitled to special respect and protection;
- The sick and wounded must be protected and provided with needed medical care and attention with the least possible delay and to the fullest extent practicable;
- The family should be protected. Measures should be taken to ensure that family members are not separated, and if separation occurs, that they are reunited as soon as possible.

4.3 International humanitarian law and internal displacement

Because internal displacement so often occurs in situations of armed conflict, IHL is especially important for the protection of internally displaced persons and other affected populations. Indeed, in many instances, respect for IHL would prevent the displacement of civilians.

IHL prohibits any party to an armed conflict from compelling civilians to leave their places of residence. Temporary evacuations may be carried out *only* if the security of civilians or military imperatives absolutely require it; and even then, such evacuations are subject to strict conditions. All possible measures must be taken to ensure that family members are not separated and that the displaced population is received under satisfactory conditions of shelter, hygiene, health, safety and nutrition. Moreover, such evacuations must be temporary; those affected have the right to return in safety to their homes as soon as the reasons for their displacement cease to exist.¹³

In addition to this express prohibition of displacement, the rules of IHL that are intended to spare civilians from the effects of hostilities help prevent forced displacement. It is often the violation of these rules that cause civilians to flee their homes and become displaced.

If displacement does occur, IDPs, like all other civilians, are entitled to protection and assistance, as required. Parties to a conflict have a duty to allow humanitarian access and assistance to civilian populations in need.

“When civilians flee a conflict zone, this is a good indication that the warring parties are indifferent to their rights under IHL or, worse, are deliberately targeting them.”

ICRC, 2007

4.4 Responsibility to respect and ensure respect for IHL

Each party to a conflict has an obligation to respect and ensure respect for IHL by its armed forces and any other persons or groups acting on its instructions, or under its direction or control. In particular, States must:

- Provide instruction and training on IHL to the armed forces and the public.
- Criminalize violations of the law and put in place adequate legal, administrative and disciplinary structures to prevent, monitor and investigate violations.
- Prosecute and punish or extradite those responsible for serious violations of the law.

The International Committee of the Red Cross (ICRC) is an independent and neutral organization mandated by IHL and its Statute to provide assistance and protection to victims of armed conflict and to promote and monitor respect for IHL. For further information see www.icrc.org.

In addition, IHL obliges other (neutral) States to work to ensure that the parties to a given conflict respect IHL. This can be accomplished through advocacy, capacity-building, support to humanitarian operations, and prosecution or extradition of those responsible for violations of the law.

All States, regardless of whether or not they are parties to a given conflict, have the duty to prosecute and punish in their own courts, or to extradite, those responsible for serious violations of IHL, such as war crimes and/or grave breaches of the law, regardless of where the crime took place or the nationality of the perpetrator.¹⁴ Members of armed forces and groups can be held individually responsible for violations of IHL, regardless of their rank and whether

¹³ See Rules 129-133 of Customary International Humanitarian Law: Volume I (ICRC, 2005). See also Art. 49 of the Fourth Geneva Convention and Art. 17 of Additional Protocol II.

¹⁴ Grave breaches are defined in each of the four Geneva Conventions, Articles 50, 51, 130 and 147 respectively, and Additional Protocol I, Articles 11 and 85. They include willful killing, torture and inhuman treatment, willfully causing great suffering or serious injury to body or health, and unlawful deportation or transfer of populations.

or not they were acting under orders. Military commanders can also be held responsible for either ordering or failing to take measures to prevent such violations from taking place. Individual criminal responsibility has been further developed under international criminal law, which is discussed below.

5. International criminal law

National authorities have an obligation to criminalize violations of international human rights and humanitarian law in national legislation and to prosecute and punish those responsible before national courts and tribunals. In some cases, individuals can be brought to justice under international criminal law.

The Statute of the International Criminal Court (ICC)¹⁵ defines a number of crimes that are considered to be of international concern and which can be investigated and prosecuted by the court, provided that the Court has jurisdiction over the act. These include:

- **War crimes**, which include grave breaches of the Geneva Conventions and serious violations of international humanitarian law; cover a range of acts, including wilful killing, torture and inhuman treatment, rape and sexual slavery, starvation of civilians, recruitment of children under 15 into armed forces or groups or using them to participate in hostilities, launching attacks against the civilian population or civilian objects, and ordering the displacement of the civilian population, unless required for the security of civilians or military imperatives.¹⁶
- **Crimes against humanity**, which are acts committed as part of a widespread or systematic attack directed against a civilian population, whether in times of war or peace, including murder, extermination, enslavement, deportation or forcible transfer of population, arbitrary imprisonment or other severe deprivation of liberty, rape and sexual violence, persecution, enforced disappearance, and other inhuman acts intentionally causing great suffering or serious injury to body or to mental or physical health.¹⁷
- **Genocide**, which involves acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial or religious group, including killings, inflicting serious bodily or mental harm, imposing conditions of life calculated to bring about the group's destruction, preventing births, and/or forcibly transferring children to another group.¹⁸

International criminal law is complementary to national law in the sense that international courts, such as the ICC, generally only exercise jurisdiction when national courts have proven unwilling or unable to prosecute and punish the crimes in question. To date the ICC has opened investigations into four situations, in Northern Uganda, the Democratic Republic of the Congo, the Central African Republic, and in Darfur.

The international community has also established a number of *ad hoc* criminal tribunals, whose decisions may be drawn upon for interpretations of international criminal law. These tribunals include the International Criminal Tribunal for the Former Yugoslavia, and the International Criminal Tribunal for Rwanda, which were established by the UN Security Council and use foreign judges. The UN has also supported the creation of hybrid tribunals such as the Special Court for Sierra Leone and the Extraordinary Chambers in the Courts of Cambodia, which have both foreign and domestic judges.

¹⁵ Statute of the International Criminal Court, 1998, UN Doc. A/CONF.183/9. For further information, including the text of the Statute, visit www.icc-cpi.int.

¹⁶ Article 8 of the Statute of the International Criminal Court.

¹⁷ Article 7 of the Statute of the International Criminal Court.

¹⁸ Article 6 of the Statute of the International Criminal Court. See also the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

6. The Guiding Principles on Internal Displacement

The Guiding Principles on Internal Displacement bring together the rights of IDPs and the responsibilities of national authorities and non-State actors towards them. Although not a binding document, like a treaty, the Guiding Principles are **based on and reflect existing standards of international law**, which *are* binding.¹⁹

The Guiding Principles on Internal Displacement have been translated into over 40 languages, including: Arabic, Dinka, Georgian, Luo, Nepali, Pashtu, Sinhala, Somali, Spanish, Swahili, Tamil and Turkish. They are available online at www.brookings.edu/projects/idp/gp_page.aspx and have been reproduced in Annex 1 at the end of this Handbook.

The Principles' authority is reinforced by the wide international acceptance that they have received. They are recognized by States as "an important international framework for the protection of internally displaced persons," as well as a "tool" and "standard" to guide governments, international organizations and all other relevant actors in situations of internal displacement.²⁰

The Guiding Principles provide a definition of an IDP and a comprehensive statement of what protection should mean during internal displacement. It covers all phases of displacement:

- the pre-displacement phase, providing protection from unlawful displacement;
- protection and assistance during displacement; and
- durable solutions, namely return, local integration at the place of displacement or resettlement in another part of the country and reintegration.

The Guiding Principles address a range of particular needs and protection risks that typically arise in situations of internal displacement, such as family separation, loss of documentation, freedom of movement in and out of camps, and loss of property, and identify the corresponding rights and guarantees to address these concerns. Incorporating civil and political rights as well as economic, social and cultural rights, the Principles cover the broad spectrum of rights, including those not typically at the forefront of humanitarian action. It covers rights relating to:

- **physical security and integrity** (such as the rights to life, protection from torture and rape);
- **basic necessities of life** (such as the rights to food, water, shelter, health and sanitation);
- other **economic, social and cultural protection needs** (such as access to education, property restitution or compensation); and
- other **civil and political protection issues** (such as the rights to personal documentation and to political participation).

¹⁹ The basis in international law for each Principle is summarized in: Walter Kaelin, *Annotations. Guiding Principles*, American Society of International Law (2000), available at: http://www.asil.org/pdfs/study_32.pdf.

²⁰ United Nations General Assembly, 2005 World Summit Outcome resolution adopted by Heads of State, UN doc. A/RES/60/1, 15 September 2005, para. 132. See also UN Commission on Human Rights Resolution 2003/1, 23 April 2003; and UN General Assembly Resolution 58/177, 22 December 2003.

Guiding Principles on Internal Displacement: Overview

Section	Key Points
Introduction	<ul style="list-style-type: none"> • Provides a definition of internally displaced persons • Affirms that the Principles reflect international human rights law and IHL • Explains that the purpose of the Principles is to provide guidance in situations of displacement
I. General Principles (Principles 1-4)	<ul style="list-style-type: none"> • National authorities have the primary responsibility to protect and assist IDPs within their jurisdiction • IDPs are entitled to enjoy in full equality the same rights and freedoms as other persons in their country and shall not be discriminated against • Certain IDPs, especially unaccompanied minors, expectant mothers, mothers with young children, female heads-of-households, persons with disabilities and the elderly, might require specific attention
II. Protection from Arbitrary Displacement (Principles 5-9)	<ul style="list-style-type: none"> • Articulates a right not to be arbitrarily (unlawfully) displaced and spells out the situations in which displacement is absolutely prohibited • States have a duty to avoid the displacement of populations unless absolutely necessary and to protect against the displacement of groups with a special dependency on their lands • When displacement is unavoidable, certain guarantees must be established for displacement to be lawful
III. Protection and Assistance during Displacement (Principles 10-23)	<p>All persons, including IDPs, should enjoy, a broad range of civil, political, economic, social and cultural rights, including the rights:</p> <ul style="list-style-type: none"> • to life and to protection against acts of violence and torture, sexual and gender-based violence, landmines, and recruitment of children into armed forces or groups and their participation in hostilities • to safe access to essential food, potable water, basic shelter, appropriate clothing, medical services and sanitation • to freedom of movement, including in and out of IDP camps • to seek asylum in another country • to personal documentation • to respect for family life and unity • to education and training, equally for women and girls • to employment and participation in economic activities • to vote and participate in government and public affairs
IV. Access to Humanitarian Assistance (Principles 24-27)	<ul style="list-style-type: none"> • When State authorities are unable or unwilling to provide assistance to the displaced, international organizations have the right to offer their services and to enjoy rapid and unimpeded access to the displaced • Humanitarian assistance shall be provided consistent with the principles of humanity and impartiality and without discrimination • Humanitarian actors should take into account and work to address not only the assistance but also the protection concerns of IDPs
V. Durable Solutions (Principles 28-30)	<p>IDPs should have access to a durable solution to displacement, namely rights to:</p> <ul style="list-style-type: none"> • return to their place of origin, integrate locally at displacement site, or resettle elsewhere in the country – voluntarily, safely and in dignity • participate in planning their return or settlement and reintegration • return of lost property or, where not possible, to receive compensation • equal access to public services

6.1 The Guiding Principles as a Protection Tool

The Guiding Principles are more than a simple compilation and restatement of legal rules. They provide a comprehensive framework for identifying protection concerns and for planning, implementing and monitoring protection activities in situations of internal displacement. They can be used by governments, international agencies, NGOs and IDPs themselves to promote and protect the rights of internally displaced persons.



IN OUR WORK

The Guiding Principles on Internal Displacement can be used to support our work in a number of ways. The Principles help us to:

- **Monitor and assess** the extent to which IDPs are able to enjoy their rights and identify what protection risks they face;
- **Collect data** using a systematic frame of reference to identify and gather information about protection concerns, causes of displacement, and groups with particular vulnerabilities;
- **Develop strategies** and determine programming priorities for a coordinated national and international response to internal displacement;
- **Raise awareness of and advocate** with national authorities and other actors for respect for the rights of IDPs;
- **Provide training** for displaced individuals and communities, national authorities, including the military and the police, non-State actors where relevant, civil society and human rights, humanitarian, development and peacekeeping staff;
- **Inform IDPs of their rights and empower** them to claim respect for their rights;
- **Build the capacity of States and other authorities** to support them in fulfilling their protection responsibilities. This can include training, technical assistance and advisory services; and
- **Offer advice on national law, policy or action plans relating to IDPs** to ensure that these respect the rights of IDPs (see also section below on the National Legal Framework).


In addition to the *Guiding Principles on Internal Displacement*, there are other principles and guidelines that address specific protection issues that can arise or certain types of internal displacement. These include:

- Principles on **Housing and Property Restitution** for Refugees and Displaced Persons (2005)
- Basic Principles and Guidelines for **Development-based Evictions and Displacement** (1997) and Comprehensive Human Rights Guidelines on **Development-based Displacement** (2006)
- Protecting Persons Affected by **Natural Disasters**: IASC Operational Guidelines on Human Rights and Natural Disasters (2006)
- Paris Principles: Principles and Guidelines on **Children Associated with Armed Forces or Armed Groups** (2007)

7. The national legal framework

National laws form the primary legal basis for IDP protection. However, all States have a responsibility to ensure that their national laws and policies respect and reflect their obligations under international law, including those contained in international human rights and humanitarian law. States must therefore take action, by all appropriate means, to give effect to their international legal obligations at the national level.

More specifically, national legislative and policy frameworks should respect the rights and guarantees to which IDPs are entitled under international law, and be consistent with the State's international legal obligations. Protection strategies and activities should also take into

account relevant domestic traditional, customary, or religious dispute resolution mechanisms, which are discussed in more detail in the Access to Justice Action Sheet (*see Part V.10*). 

7.1 National legislation on internal displacement

States are generally encouraged to strengthen legal frameworks for the protection of IDPs and to promote the Guiding Principles on Internal Displacement through national legislation.²¹ This does not mean that it is necessary or even appropriate in all contexts to adopt IDP-specific legislation. IDPs are citizens or habitual residents of the country in which they live and, as such, are entitled to the same rights and freedoms as other persons in the country.

Internal displacement can however create specific problems and obstacles for IDPs and action may thus be required to ensure that they can exercise their rights on a full and equal basis with others.

Two distinct types of national legislation should be considered in any given situation of internal displacement:

- a. **Generally applicable laws**, which, although they will probably not explicitly address internal displacement, nonetheless relate to issues affecting internally displaced persons. Examples include administrative laws determining how individuals can regain lost personal documents; property laws setting out rules and procedures for claiming compensation; electoral codes determining voter eligibility criteria; and education laws defining admissibility criteria and languages of instruction.
- b. **Laws specifically focused on addressing situations of internal displacement**²²
These could take a number of forms. In some instances, governments have adopted laws on a specific phase of displacement, for instance, spelling out minimum standards to be observed during the return or settlement elsewhere and reintegration process. In other cases, governments have adopted comprehensive national laws on internal displacement covering all phases of displacement, from prevention to solutions, and all causes of displacement, including conflict and disasters.

Any specific legislation on internal displacement must have as its aim and effect to ensure that IDPs enjoy their rights *equally* with other citizens or habitual residents of the country. Caution must be exercised to ensure that the consequence of an IDP-specific law is not to isolate IDPs as a separate legal category, which, in extreme cases, might lead to their marginalization from the rest of the community and even the violation of their rights.

Whether IDP-specific legislation would be necessary to ensure the protection of IDPs' rights will depend upon the context. In many cases, modification of existing legislation might well be sufficient to address the particular protection concerns that arise in situations of internal displacement. Indeed, even when there is IDP-specific legislation, amendments to general legislation often will be essential. For instance, to address the particular obstacles that IDPs face in enjoying their rights to property, documentation, education or political participation, simply affirming these rights in an IDP law will usually not be sufficient; rather, it will be necessary to amend the relevant piece of general national legislation (e.g. civil status legislation, education act or electoral code) to remove the legislative impediments that IDPs face or to establish simplified procedures.

²¹ United Nations Economic and Social Council (ECOSOC) Resolution 2003/5 (15 July 2003), para. 8; *In Larger Freedom*, Report of the Secretary-General, 21 March 2005, A/59/2005, para. 210. Regional organizations have similarly encouraged States in this regard.

²² A number of countries have adopted national legislation specifically relating to internal displacement, including Angola, Bosnia and Herzegovina, Colombia, Georgia, Peru, Russia, and Turkey. These are available at the Database on National and Regional Laws and Policies on Internal Displacement at www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx

It is therefore important to review and analyze national legislation in terms of its compatibility with international legal standards and, on this basis, to identify any legislative reform needed to ensure respect for the rights of internally displaced persons. In some countries, local lawyers' groups have conducted studies of national legislation and then worked with the governments to revise national laws so that they conform with the Guiding Principles and the international standards that underpin it.²³ Indeed, national laws and policies will be most effective when developed in consultation with civil society, including IDPs themselves.

To assist such efforts, the Representative of the UN Secretary General on the Human Rights of Internally Displaced Persons is developing a *Manual for Domestic Law and Policy Makers on Implementing the Guiding Principles on Internal Displacement*, providing guidance on key elements to consider in national legislation to ensure protection of the rights of IDPs. The Manual is due for publication in 2008.

International humanitarian and protection agencies can also help States ensure that their national laws and policies conform with international standards by providing technical assistance and advice.




IN OUR WORK

It is important to understand the national legal framework and its relevance to protecting the rights of IDPs. In particular, we should:

- Be aware of the national laws and policies that relate to internal displacement and to issues of concern to internally displaced persons;
- Understand the extent to which these policies are consistent with the State's obligations under international law and are in accordance with the Guiding Principles on Internal Displacement;
- Offer advice, as appropriate, to the government in strengthening national laws to ensure that IDPs do not face any legislative barriers to realizing their rights;
- Raise awareness among IDPs of those national laws and policies relevant to their protection, empowering them to advocate and claim their rights;
- Advocate for and monitor the implementation of national laws and policies of particular relevance in situations of internal displacement;
- Support the capacity of national authorities to implement national legislation and policies that would protect the rights of IDPs, including through training and awareness-raising, technical assistance and advice, programme support and resource mobilization; and
- Provide legal aid to assist IDPs with accessing legal mechanisms to protect their rights.

7.2 Ensuring respect for rights under national law

A number of different mechanisms for enforcing national laws and policies may exist within a State, and could include both formal (state-run) justice mechanisms such as courts, tribunals and quasi-judicial mechanisms, or alternative mechanisms such as religious courts, tribal councils, or grievance committees. For more guidance about how to work within national legal systems to defend human rights and ensure accountability for crimes, violence and abuse, see the Access to Justice action sheet (Part V.10). 

²³ See *The Guiding Principles on Internal Displacement and the Laws of the South Caucasus*, Studies in Transnational Legal Policy, no. 34, Cohen, R., Kaelin, W., and Mooney, E., (eds.), American Society of International Law and the Brookings Institution Project on Internal Displacement, 2003.

Annex I

Regional human rights law and mechanisms relevant to IDPs

Reinforcing international human rights law are several **regional human rights instruments** that enhance human rights protection for all persons in the region, including IDPs. In Africa, Latin America and Europe, the regional human rights framework is particularly important because rights can be enforced in regional human rights courts.

In Africa:

The **African Charter on Human and Peoples' Rights** affirms the range of civil, political, economic, social and cultural rights, including the right of every individual to freedom of movement and choice of residence, and the right to property.

Supplementing the Charter's provisions for the protection of the rights of women and children are the **African Charter on the Rights and Welfare of the Child** and the **Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa**.

Both instruments include specific provisions relating to State obligations to respect human rights in times of armed conflict, and reiterate the responsibility of States to respect and ensure respect for international humanitarian law, including protection of civilians. *The Charter on the Rights of the Child* also affirms that **no child under 18 is to be recruited** or otherwise take direct part in hostilities, and makes express reference to the need to **protect and assist internally displaced children** and to ensure **family reunification** in situations of displacement. The *Protocol on the Rights of Women* also includes commitments to:

- **protect internally displaced women against all forms of violence, rape and sexual exploitation** and ensure perpetrators are brought to justice;
- ensure the increased **participation of displaced persons, particularly women, in the management of camps and settlements**; and
- devote attention to **widows' property rights**, which is key for women heads-of-households whose numbers tend to increase dramatically during displacement.

Monitoring the implementation of States' commitments under the African Charter is the **African Commission on Human and Peoples' Rights**. Individuals, including IDPs, can submit individual complaints of rights violations to the Commission for consideration by the **African Court on Human and Peoples' Rights**.

The Commission also has a **Special Rapporteur on Refugees, Asylum-seekers and Displaced Persons in Africa** who is mandated to: seek, receive, examine and act upon information concerning the rights of refugees, asylum-seekers and IDPs; undertake fact-finding missions to displacement situations; engage in dialogue with States and others relevant actors; develop strategies to better protect the rights of these groups; and raise awareness of the legal standards for their protection.

The **African Union** (formerly the Organization of African Unity) is developing a regional convention on internal displacement.

At the sub-regional level, there are instruments specifically relating to internal displacement, including:

- Great Lakes Protocol on the Protection and Assistance to Internally Displaced Persons and Model Law (2006) and the Protocol on the Property Rights of Returning Persons (2006) are legally binding on any country that ratifies them;
- the non-binding Khartoum Declaration of the Inter-Governmental Authority on Development (IGAD) Ministerial Conference on Internal Displacement (2003) contains important commitments by States in East Africa to protect the rights of IDPs.

In the Americas

The Organization of American States (OAS), composed of the governments of Latin America, the Caribbean, and North America, has adopted a number of human rights instruments, most notably the **American Convention on Human Rights** (1969).

Monitoring implementation of the American Convention are the **Inter-American Commission on Human Rights** and, for judicial issues, the **Inter-American Court of Human Rights**.

- The **Commission**, composed of independent human rights experts, has been active in monitoring and reporting on situations of internal displacement, and making recommendations to governments for more effective national responses. Spearheading these efforts has been a **Special Rapporteur on Internally Displaced Persons** (1996-2004). IDPs can submit complaints of human rights violations directly to the Commission for referral to the Court.
- The **Court** has increasingly considered cases and issued decisions, which are binding on the State concerned, on issues relating to internal displacement. In particularly important cases, concerning IDPs in Colombia, the Court has concluded that arbitrary displacement violates Article 22 of the American Convention (concerning the right to freedom of movement) and has also insisted that governments must protect persons from displacement.

The OAS has called on all States in the region to address the causes of displacement and, if displacement occurs, to commit to providing IDPs with protection and assistance in accordance with the Guiding Principles on Internal Displacement (OAS resolution 2229 of 2006).

In Europe

The **Council of Europe** has adopted several human rights instruments, most notably the **European Convention for the Protection of Human Rights and Fundamental Freedoms** (1950) and its 14 Protocols, which contain important provisions relevant to IDPs, including the right to property.

The Council of Europe recommends that States confronted with internal displacement base their national legislation and practice on the **Guiding Principles on Internal Displacement** in addition to all relevant instruments of human rights and international humanitarian law. It has spelled out how the European Convention on Human Rights can be applied to the specific needs faced by IDPs, including safeguarding the civilian nature of camps, facilitating family reunification, and providing protection from forcible return to an area where IDPs' physical safety would be at risk. The Council of Europe has specifically affirmed the rights of IDPs to replacement documentation, compensation for deprivation of property, education, and political participation. See Recommendation 6 *on internally displaced persons* adopted by the Committee Ministers on 5 April 2006.

The **European Court of Human Rights** reviews cases of alleged violations of the Convention and its protocols. IDPs can bring cases directly to the European Court for consideration. In recent years, the Court has issued a number of important binding judgements relating to rights violations suffered by IDPs, particularly regarding the right to property, and awarded victims of such violations financial compensation.

Also relevant are the "human dimension" commitments adopted by the **Organization for Security and Cooperation in Europe (OSCE)**, comprising 56 States across Europe, including all the successor States of the former Soviet Union, Canada and the United States. Although not binding, these commitments reinforce and promote international human rights. The OSCE's Office for Democratic Institution and Human Rights (ODIHR) and its High Commissioner for National Minorities both undertake work relevant to IDP protection.



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- *Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates*, Brookings Institution-Bern Project on Internal Displacement, 2006. www.brookings.edu/projects/idp/2006_guidebook.aspx
- *Customary International Humanitarian Law*, Volume I: Rules. ICRC, 2005. www.icrc.org



Useful websites

- Compilation of International Human Rights Law: <http://www2.ohchr.org/english/law/>
- International Humanitarian Law Database: www.icrc.org/ihl
- UN Treaty Body Database (Ratifications and Reservations): <http://www.ohchr.org/EN/Countries/>
- Universal Human Rights Index of United Nations Documents: www.universalhumanrightsindex.org
- Database on National and Regional Laws and Policies on Internal Displacement: www.brookings.edu/projects/idp/Laws-and-Policies/idp_policies_index.aspx
- Websites of the UN Human Rights Bodies (Charter Bodies and Treaty-Monitoring Bodies): www.ohchr.org/english/bodies/index.htm

Chapter 3

The international institutional framework



Key message

Providing protection and assistance to internally displaced persons is first and foremost the responsibility of the State and its institutions. The international community also has an important role to play, in particular when the national authorities lack the capacity, or are unwilling, to ensure an effective response to a humanitarian crisis. This requires a well coordinated effort by a range of human rights, humanitarian, developmental, political and other actors. This chapter gives an overview of the collaborative response and the cluster approach, which guide humanitarian action at the global and country level.

1. A Collaborative Response

Internal displacement and humanitarian crises often occur in complex emergencies, characterized by a partial or even complete breakdown of State authority, including the capacity, and in some cases willingness, to ensure the protection of civilians. Responding to such crises typically requires a multi-dimensional response – humanitarian, human rights, development, security, political – and the combined efforts of an array of actors at both the national and international levels.

For the international community, the scale of such crises and the scope of human suffering call for a wide-ranging humanitarian response that lies beyond the mandate or capacity of any single agency or organization. In fact, a great number of international humanitarian, human rights and development actors, from both within and outside of the UN system, undertake activities in support of IDPs and other civilians at risk. It is a joint, or collaborative, effort that requires coordination.

The **Emergency Relief Coordinator (ERC)**, who is also the UN Under-Secretary-General for Humanitarian Affairs, is responsible for ensuring inter-agency coordination of humanitarian action, both in complex emergencies and in natural disasters. A core function of the ERC is to ensure that all humanitarian issues are effectively addressed. The ERC advocates for protection and assistance, mobilizes political and financial support for humanitarian action, provides briefings to the Security Council, and engages in dialogue with governments, humanitarian agencies, and other relevant actors.

The **Inter-agency Standing Committee (IASC)**, which is chaired by the ERC, is the principal inter-agency forum for coordination and decision-making on issues of humanitarian action. It brings together a broad range of UN and other international humanitarian, human rights and development actors.¹ The IASC develops humanitarian policies and tools, advocates for the respect of humanitarian principles, agrees on a division of responsibility for various humanitarian actions, and works to bridge any identified gaps in the overall response.

¹ Participants in the IASC include UN humanitarian, human rights and development agencies, the International Organisation for Migration (IOM), three consortia of major international NGOs, the UN Representative of the Secretary-General on the Human Rights of Internally Displaced Persons and, as observers, the Red Cross Red Crescent Movement represented by the International Committee of the Red Cross (ICRC) and the International Federation of Red Cross and Red Crescent Societies (IFRC).

IASC policies and tools relevant to IDP protection include:

- Protection of Internally Displaced Persons, Policy Paper (1999)
- Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams (2004)
- Growing the Sheltering Tree: Protecting Rights Through Humanitarian Action (2002)
- Gender Handbook for Humanitarian Action (2007)
- Operational Guidelines on Human Rights and Natural Disasters (2006) and Manual (2007)
- Guidelines on Mental Health and Psycho social Support in Emergency Settings (2007)

The publications are available in various languages at: www.humanitarianinfo.org/iasc/content/default.asp

The collaborative response is about working as a team. It draws upon the different mandates, expertise and operational capacities of the wide range of humanitarian, human rights and development actors, pooling their efforts to ensure a comprehensive and predictable response.²

In practice, however, this has been easier said than done. At times, there has been no clear delineation of responsibilities, coordination among the different actors has been inconsistent, and critical gaps have resulted, particularly regarding protection of IDPs.³ In order to bridge those gaps the IASC agreed to a comprehensive reform of the humanitarian response system in 2005, including strengthening the collaborative response through what is called the “cluster approach.”

2. The Cluster Approach

The cluster approach⁴ aims to ensure greater leadership and accountability in key sectors where gaps in humanitarian response have been identified, and to enhance partnerships among humanitarian, human rights and development actors, including the UN, NGOs and other organizations. The cluster approach also aims to address repeated calls for a more predictable, effective and accountable inter-agency response to ensuring protection and assistance for internally displaced persons.

The collaborative response and the cluster approach, through which that response is applied, operate at two levels: the global (headquarters) level and the country-level.⁵

2.1 Global Clusters and Sectors of the Humanitarian Response

Protection is one of the several “clusters,” or areas of humanitarian activity, that were identified as being in critical need of a strengthened coordination and response (see Table 1).

Each cluster/sector is led by an international agency or organization with particular expertise in the area. This agency is accountable to the Emergency Relief Coordinator (ERC) for ensuring predictable and effective inter-agency preparedness and response within the particular cluster or sector of activity.

In addition, the cluster lead is responsible for chairing and coordinating the work of the relevant global cluster working group, which

The clusters complement a number of pre existing “sectors” of humanitarian activity, such as food and refugees, for which clear leadership and accountability already existed and thus did not require a new coordination arrangement. Indeed, a **cluster essentially is a sector group**. The objectives are the same: filling gaps and ensuring adequate preparedness and response in a particular area of humanitarian activity.

² See also *Implementing the Collaborative Response to Situations of Internal Displacement*, IASC, Sept 2004.

³ See e.g. *Protect or Neglect* (Brookings-SAIS Project on Internal Displacement and OCHA, 2004) and the *Humanitarian Response Review*, OCHA, 2005.

⁴ For more information, see *Guidance Note on the Using the Cluster Approach to Strengthen Humanitarian Response* (IASC, Nov 2006).

⁵ The cluster approach is applied in all new major humanitarian emergencies, including disasters, and, as needed, in existing complex emergencies.

brings together all those international humanitarian, human rights and development actors that are engaged in the specific area of activity. The cluster working groups are responsible for:

- **Standard- and policy-setting** through the consolidation, dissemination and development of standards and policies, and identification of best practices;
- **Building response capacity**, in particular through training at the local, national, regional and international levels, establishing and maintaining surge capacity and standby rosters, and establishing and maintaining material stockpiles; and
- **Providing operational support**, including through timely assessments of needs for human, financial and institutional response capacity; emergency preparedness and long-term planning; securing access to appropriate technical expertise; advocacy; resource mobilization and pooling; and ensuring complementarity of efforts through enhanced partnerships.

Table 1: Overview of global clusters and sectors

	Area of activity	Lead agency	
CLUSTERS			
<i>Cross-cutting areas</i>	Protection	<ul style="list-style-type: none"> • IDPs (<i>from conflict</i>) 	UNHCR
		<ul style="list-style-type: none"> • Civilians affected by conflict (other than IDPs) • Disaster situations 	UNHCR / OHCHR / UNICEF ⁶
	Camp coordination and management	<ul style="list-style-type: none"> • IDPs (<i>from conflict</i>) 	UNHCR
		<ul style="list-style-type: none"> • Disaster situations 	IOM
	Early recovery		UNDP
<i>Technical areas</i>	Emergency shelter	<ul style="list-style-type: none"> • IDPs (<i>from conflict</i>) 	UNHCR
		<ul style="list-style-type: none"> • Disaster situations 	IFRC ⁷
	Health		WHO
	Water, sanitation and hygiene		UNICEF
	Nutrition		UNICEF
	Education		UNICEF / Save the Children
	Agriculture		FAO
<i>Common service areas</i>	Logistics		WFP
	Emergency telecommunications		OCHA / UNICEF / WFP
SECTORS			
	Food		WFP
	Refugees		UNHCR

⁶ UNHCR is the lead of the global Protection Cluster. In disaster situations or in complex emergencies without significant displacement, the three specialized UN protection agencies at the country level – UNHCR, OHCHR and UNICEF – will consult and, under the leadership of the HC/RC, agree which among them will assume the lead for protection. See below for further information on applying the cluster approach at the country level.

⁷ IFRC acts as a “convenor” rather than “lead” of the cluster for emergency shelter in disasters. In this capacity, it is committed to providing leadership, consolidating best practices, mapping capacity and gaps, and leading a coordinated response. However, IFRC does not accept obligations beyond those defined in its own Constitutions and policies; it is independent from and not accountable to the UN system.

Human rights, age, gender and diversity, HIV/AIDS and the environment are cross-cutting issues to be mainstreamed into the work of each cluster/sector and of each agency or organization. Focal points provide guidance and support for such efforts. Specifically:

Table 2: Cross-cutting Issues

	Focal point
Human rights	IASC Reference Group on Human Rights in Humanitarian Action ⁸ (led by OHCHR)
Age, gender and diversity	IASC Sub-Working Group on Gender and Humanitarian Action (led by UNFPA)
HIV/AIDS	Inter-agency Task-Team on HIV/AIDS (led by UNAIDS)
Environment	UN Environment Programme (UNEP)

2.1.1 The Protection Cluster

The Global Protection Cluster Working Group (PCWG) is the main forum at the global level for coordinating all protection activities in humanitarian action. Chaired by UNHCR as global protection cluster lead, the PCWG's members include UN humanitarian, human rights and development agencies as well as non-governmental and other international organizations active in protection.⁹

The role of the PCWG is to lead standard- and policy-setting relating to protection, identify and disseminate good practices, and support the development of strengthened protection capacity.¹⁰

The PCWG also can provide, within the limits of its capacity, operational field support to humanitarian country teams, in both cluster and non cluster countries, by:

- Undertaking **support missions** to assist country teams in identifying protection gaps and developing strategies for response;
- Providing guidance and support for mainstreaming **human rights, age, gender, diversity, and HIV/AIDS**;
- Supporting **advocacy** on protection;
- Providing **technical support and policy advice** on protection issues;
- **Strengthening the protection capacity** of humanitarian actors and other stakeholders, including, national and local authorities, and affected populations, through training programmes;
- Supporting efforts to **address identified protection concerns** in a given country; and
- Supporting **resource mobilization** for protection activities.

Since protection is such a wide-ranging activity, the PCWG has subdivided its work into a number of specific areas of responsibility, each led by a focal point agency.

⁸ This Reference Group, which pre-dates the cluster approach, works closely with the Global Protection Cluster in supporting the integration of protection and human rights into all areas of humanitarian activity.

⁹ For further information on the participants and work of the PCWG, see <http://www.humanitarianreform.org/>

¹⁰ See *Mission Statement and Terms of Reference for the Protection Cluster Working Group*, March 2007.

Table 3: Particular Areas of Protection Activity

Area of Responsibility under the Global Protection Cluster	Focal Point(s)
Rule of law and justice	UNDP / OHCHR
Prevention of and response to gender-based violence	UNFPA / UNICEF
Protection of children	UNICEF
Protection of other persons/groups with specific needs	UNHCR
Prevention of and response to threats to physical safety and other human rights violations	OHCHR / UNHCR
Mine action	UNMAS
Land, housing and property rights	UN HABITAT
Promotion and facilitation of solutions	UNDP
Logistics and information management support for the cluster	UNHCR

Protection is not only the concern of the protection cluster; it is also a cross-cutting issue that should be integrated into the work of *all* aspects of humanitarian response. All humanitarian actors share a responsibility for ensuring that their activities do not lead to or perpetuate discrimination, abuse, violence, neglect or exploitation; they should promote and respect human rights and enhance protection. The Protection Cluster exercises a “*droit de regard*” in this respect, meaning it has a role in ensuring that protection is integrated into the work of other clusters and sectors.

The Global Protection Cluster can assist other cluster/sectors in mainstreaming protection in their activities by:

- Encouraging other cluster/sectors to establish **focal points for protection**;
- Offering **technical expertise and advice** to other clusters/sectors, individual agencies, organizations and governmental counterparts;
- Supporting and participating in **joint assessments** and analyses, development of joint strategies, monitoring exercises and evaluations;
- Providing or supporting **training** on protection and human rights, with a special focus on internal displacement;
- Participating in the **meetings of other clusters/sectors** and inviting their representatives to participate in the meetings of the protection cluster, as appropriate;
- Convening **joint meetings or workshops** among different clusters/sectors on themes of common concern; and
- Maintaining a **regular dialogue** and sharing information on issues of common concern.

2.2 Country-level Coordination

It is the responsibility of the UN Humanitarian Coordinator (HC) to ensure coordination of humanitarian action, including protection and assistance to IDPs, in complex emergencies at the country level. The HC is appointed by the ERC, in consultation with the IASC. In a number of cases, the UN Resident Coordinator (RC), who is the most senior UN official in the country, is also designated the HC. In countries affected by displacement, but where an HC has not been appointed, the RC is responsible for ensuring an effective international response to internal displacement.

The responsibilities of the Humanitarian Coordinator include:

- ensuring that any protection gaps are addressed;
- promoting respect for human rights and humanitarian law and for the *Guiding Principles on Internal Displacement*;
- advocating with the national authorities and other actors for respect for humanitarian principles, including unimpeded access to affected populations;
- promoting gender mainstreaming and women's rights at the policy, planning and implementation levels; and
- mobilizing resources for the humanitarian response.¹¹

In carrying out these responsibilities, the HC and/or RC should act in full consultation with organisations on the ground, including NGOs and the International Red Cross and Red Crescent Movement. Generally, an inter-agency Humanitarian Country Team is created to assemble these actors and facilitate consultation and coordination among them.

The Country Team, under the leadership of the HC/RC, and in consultation with relevant partners, will decide upon specific coordination arrangements to be put in place at the country level, including whether in the given situation the collaborative response would be strengthened by adopting the cluster approach.¹²

To enhance predictability and accountability, coordination structures at the field level should mirror those in place at the global level. This principle should be applied flexibly, however, depending upon the situation on the ground and taking into account the mandate, expertise and capacities of the organizations that are operating in the country or region concerned. In some cases, a particular cluster or sectoral group may not be necessary (for example, an Emergency Telecommunications or Logistics Cluster might not be required beyond the early stages of major new emergencies), or it might be appropriate for certain sectors to be merged (such as Health with Nutrition, or Food with Agriculture). For early recovery, the global-level cluster recommends that, rather than establishing a country-level cluster, early recovery planning should be integrated into the work of all field-level clusters/sectors, supported by the creation of an ad hoc "early recovery network," when necessary.¹³

2.2.1 Role and Responsibilities of Country-level Cluster Leads

In addition to its normal agency responsibilities, each cluster/sector lead agency is accountable to the HC/RC, at the field level, for ensuring effective and timely assessment and response in the particular area of activity. These responsibilities include:¹⁴

- Ensuring effective inter-agency coordination, including through: chairing and coordinating the work of the cluster; joint needs-assessments and analyses; contingency planning and preparedness; planning and strategy development; ensuring compliance with relevant international law, policies and

Cluster coordinators

Effective coordination requires an investment of time and experienced staff with solid leadership and managerial skills.

The cluster lead agency has a responsibility to deploy personnel with the necessary seniority, skills and technical expertise to perform the role of a cluster coordinator.

Many of the skills needed, particularly leadership, consensus building and diplomacy are discussed in Part VI.

¹¹ See *Revised Terms of Reference for the Humanitarian Coordinator* (IASC, Dec. 2003).

¹² Regardless of whether the cluster approach is formally adopted in a given country operation, it is recommended that the basic principles of the cluster approach, particularly the delineation of clusters/sectors, designation of an accountable lead agency, and the principle of partnership, are implemented to the extent possible. Country teams that do not apply the cluster approach should be guided by *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams* (IASC, 2004).

¹³ See *Guidance Note on Using the Cluster Approach*, Nov. 2006.

¹⁴ *Generic terms of reference for sector/cluster leads at the country level*, IASC, 24 Nov 2006. See Annex 1 to this chapter.

standards; monitoring and reporting; advocacy; mobilizing resources; and supporting training and other capacity-building efforts;

- Coordinating with national and local authorities, state institutions, local civil society and other relevant actors, including displaced and other affected communities;
- Ensuring that participatory and community-based approaches are used in all needs assessments, analyses, planning, monitoring and response;
- Ensuring that cross-cutting issues, such as age, gender and diversity, human rights, HIV/AIDS and the environment, are integrated and mainstreamed in all activities. This must include gender-sensitive programming that ensures that the needs, contributions and capacities of women and girls, as well as those of men and boys, are addressed;
- Acting as both a **“first point of call”** for the HC and **“provider of last resort”** for the particular area of humanitarian activity. The lead agency is not expected to carry out all required activities in a cluster. However, where critical gaps exist, it is responsible for filling such gaps, provided that access, security and resources allow. If such constraints impede a response, the lead agency must work with the HC and relevant partners to mobilize resources, continue advocacy efforts and attempt to fill the gap to the extent possible.¹⁵

The cluster lead should also plan for and ensure a timely and effective transition from emergency relief to longer-term recovery and development, including by putting in place early recovery strategies and procedures for a gradual phasing out and seamless handover of activities.

The clusters are forums that bring together the various relevant humanitarian actors on the basis of an equal partnership. Participation in each cluster is based on each agency’s or organization’s mandate, expertise and operational capacity in the area of activity concerned. Participating agencies are expected to be responsive and active partners in all aspects of the response in the area of humanitarian activity concerned, including during assessments, development of strategies, implementation of joint projects and programmes, resource mobilization, and monitoring and evaluation.¹⁶

Any concerns about the way in which a lead or focal point agency carries out its responsibilities can be discussed within the cluster or brought to the attention of the HC/RC, who can recommend alternative arrangements if necessary. Should gaps still remain, the ERC can raise these concerns at the global level in the IASC.

2.2.2 Protection: A Key Area for Country-level Coordination

Experience has shown that an effective, collaborative country-level response to protection concerns, regardless of whether or not the cluster approach is applied, can best be ensured by identifying a protection focal point and by establishing a protection cluster or working group to ensure effective inter-agency coordination on protection issues.

→ Step 1: Identifying a Protection Focal Point / Lead Agency

In complex emergencies, such as during conflict, UNHCR should assume primary responsibility for the protection of internally displaced and other affected populations,¹⁷ in keeping with its role as lead agency for the global protection cluster.¹⁸

¹⁵ See *Guidance Note on Using the Cluster Approach*, Nov. 2006.

¹⁶ It might be valuable for the purpose of sharing information to enable certain agencies or organizations that are not formally participating in the cluster to participate as observers. ICRC and IFRC do this in the protection cluster.

¹⁷ The PCWG has defined the term “affected populations,” as it relates to internally displaced persons, to include host communities where IDPs are living, host communities in areas of return of IDPs, and persons or communities at risk of displacement if their protection problems are not addressed.

¹⁸ UNHCR’s role in any particular situation is subject to the agency’s criteria for operational involvement, including consent of the State and the agency’s ability to operate without undue political or military influence. UNHCR assumes the role of protection-cluster lead only after it has determined that doing so will not undermine the right to asylum or the protection of refugees, that is, that its work as lead agency will not interfere with UNHCR’s mandated responsibilities. In such cases, the protection-mandated agencies (UNHCR, OHCHR and UNICEF), in consultation with the HC/RC, agree upon alternative arrangements.

In other situations, such as complex emergencies without significant displacement or in situations relating to natural or human-made disasters, the protection-mandated agencies (OHCHR, UNHCR and UNICEF) and the HC/RC will decide together which agency is best placed to assume the lead role for protection. In the event that none of them can assume the lead, all relevant stakeholders are expected to contribute to the HC/RC's capacity to coordinate the protection response.

The Country Team should decide the extent to which the various focal points for particular protection areas, such as mine action or durable solutions, that have been established at the global level should be replicated at the field level. The decision will be based on the context, including an assessment of protection risks and gaps, which may change over time, as well as the presence, expertise and operational capacity of the different focal-point agencies.

→ Step 2: Establishing a Protection Working Group

Establishing a protection working group can be essential for ensuring that protection receives focused attention and is effectively addressed in the collaborative humanitarian response. Regardless of the particular format for such a group, including whether it is formally designated as a cluster, protection working groups should aim to bridge gaps, build partnerships, and improve the protection response through increased accountability, predictability and effectiveness.



IN OUR WORK: Specific areas of activity for a Protection Working Group might include:

- Carrying out joint needs-assessments and analyses using a participatory approach;
- Forging consensus on common priorities for response;
- Developing joint protection strategies and plans of action;
- Mapping operational capacity, agreeing on geographic areas of responsibility when appropriate, identifying gaps and mobilizing resources;
- Adapting and applying inter-agency tools to support operational responses;
- Raising awareness of the human rights situation and protection concerns;
- Advocating with relevant stakeholders, such as parties to a conflict, State authorities, UN bodies and donors;
- Measuring the protection impact of the inter-agency response; and
- Linking up with the Global Protection Cluster, as appropriate, regarding protection activities, impact, best practices, and challenges, to inform the global response and prompt efforts at the country level.

In general, a PWG should be established at least at the national level, tasked with overseeing and coordinating the country-wide protection response. In emergency situations that span across/over large geographical areas or where protection concerns differ significantly from one part of the country to another, it might be wise to establish PWGs at the provincial or local level as well. Close coordination between the national PWG and any regional/local level PWGs is essential.

- On the establishment and basic modalities of a Protection Working Group, see the Checklist in Annex 2 of this chapter.
- For specific guidance on facilitating the effective functioning of a PWG, see the Chapter on Facilitating Protection Coordination Meetings in Part II of this Handbook.

The national-level PWG should be chaired by the protection lead agency for the country. Ideally, this would also be the case for provincial or local PWGs. However, if the lead agency is not present in the area, this role can be delegated to other agencies or organizations, including NGOs, that are present and have the required expertise and operational capacity. In acute protection crises, coordinating and supporting the work of the country-level PWG might require a full-time staff with the necessary seniority, skills and expertise.

PWGs should bring together all relevant international human rights, humanitarian and developmental actors. Participation will vary in different contexts, depending on which protection actors are present and active on the ground. The nature of participation might vary, with some actors choosing to serve as observers.

In situations where peacekeeping or peace-support missions are present, particularly when they have a mandate to protect civilians,¹⁹ it can be useful to involve them in the PWG as observers. At the very least, the PWG should liaise closely with them.

In some cases, it might be appropriate and, indeed, beneficial for the national and regional or local authorities to participate (see box below).

National authorities and protection working groups

National authorities bear primary responsibility for the protection of all persons within their jurisdiction. In order to address root causes of protection concerns and ensure the sustainability of our protection efforts, it is important to engage national authorities and work to strengthen their capacity to fulfill their protection responsibilities.

To what extent and how should government officials be included in the work of the PWG?


This is a key question. The answer will depend on the context. In some cases, the participation of government representatives has proven beneficial to protection efforts, for instance in facilitating the PWG's access to populations. In other situations, such as when the government is involved in human rights violations, this would clearly not work; indeed, it might deter group members from discussing protection concerns or make them fear retaliation for doing so.

Defining an appropriate relationship between the national authorities and the PWG requires reflection and discussion among PWG members.

Depending on the context, the PWG can consider several steps in developing its relationship and working methods with national authorities:

- Encouraging the **national human rights commission**, where one exists, to participate in the work of the PWG. National human rights commissions are bodies officially established and recognized by the government, with varying degrees of independence and with membership that might include leading members of civil society. These bodies can play a valuable protection role and be an important partner and link for protection actors. In addition, national and local human rights NGOs should be actively involved in the work of the PWG when appropriate;
- **Informing** the national and regional/local authorities about the establishment of the PWG and encouraging them to regard it as a resource to support an enhanced national protection response;
- Offering **technical advice** and support to national and local authorities on protection initiatives, for instance in training national/local authorities or in the development of national laws and policies to enhance protection;
- **Exchanging information** about the PWG's activities and protection concerns in meetings with the national authorities and other relevant actors;
- Establishing a **regular forum**, such as a protection liaison group, to facilitate dialogue and cooperation;
- Inviting relevant authorities to attend and participate in **specific meetings** on particular protection issues of concern; and
- Considering inviting the relevant authorities to **regularly attend and potentially even to co-chair** the PWG, when the authorities are willing to participate and contribute constructively to the process.

¹⁹ Increasingly, international and regional peacekeeping, peace-building and peace-support missions are being mandated to protect civilians. The specific activities such missions may undertake in this regard depends on the context, particularly on the formal mandate of the mission and the capacities put at the disposal of the mission. Some activities include: ensuring the civilian character of IDP and refugee camps; undertaking patrols in communities at risk; and intervening directly with parties to the conflict when the security of civilians is threatened. In a number of cases, human rights officers and child-rights specialists are deployed to these missions to monitor and report on human rights concerns. Such missions also often include a civilian police component to help restore law and order.

In all cases, the PWG must ensure the confidentiality of information and maintain independence, neutrality, and impartiality in its work. Doing so is critical to the safety of internally displaced persons and other affected populations and to the security of humanitarian personnel, particularly national staff. A primary concern should be the protection of witnesses and other affected persons (see Part I.1.5). 

2.3 Joint funding mechanisms

During complex emergencies, the HC/RC oversees an annual **consolidated appeals process** (CAP). This entails formulating a common humanitarian action plan (CHAP): a joint strategy analyzing the political, social and security situation of the particular country or crisis; projecting short-term and long-term humanitarian needs; assessing the capacities of the agencies involved in addressing these needs; and proposing a common set of objectives, actions and indicators for success. A Consolidated Appeal then sets out the specific projects and resources required to meet these objectives. Together, these documents serve as the primary tool to mobilize resources at the field level, although agencies and organizations can also apply for bilateral funding. A shorter Flash Appeal can also be prepared to enable more rapid resource-mobilization and response.

In addition, grants and/or loans are available from the **Central Emergency Response Fund** (CERF) to support activities to respond to rapid onset or under-funded emergencies. Managed by the ERC, the CERF is intended to complement existing funding mechanisms by providing seed funds to jump-start critical operations and fund life-saving programmes that are not yet funded.

All appeals, as well as funding needs and contributions, can be accessed online through the Financial Tracking Service (FTS), hosted by OCHA, at <http://ocha.unog.ch/fts2>.



IN OUR WORK: The common funding mechanisms can be important channels to mobilize resources for our efforts to enhance protection. We should, for instance:

- Be familiar with the Consolidated Appeals Process (CAP) and work with partners to ensure timely submission of protection programmes and projects for inclusion in the CAP;
- Work with other clusters/sectors to identify and develop projects that directly or indirectly contribute to enhanced protection, and assist them in mainstreaming protection concerns into their project submissions to the CAP;
- Consider, if working in a rapidly evolving or under-funded emergency, whether certain projects could qualify for funding from the CERF; and
- Explore the possibility of seeking funding from the private sector.

2.4 Protection staffing and standby arrangements

Protection efforts require an adequate number of skilled, knowledgeable and experienced staff with a strong protection background. Several stand-by arrangements provide “surge” protection capacity, deploying personnel at short notice for temporary assignments with UN agencies of 3 to 11 months. This includes the International Rescue Committee’s Surge Project, the Danish Refugee Council (DRC), the Norwegian Refugee Council (NRC), Save the Children (Denmark, Sweden, Norway), and Austcare.

The Protection Capacity Project (ProCap) consists of a core team of Senior Protection Officers on permanent rotation to the field, deployed on a short-term basis (2-9 months) to support and strengthen the strategic and operational response of the Humanitarian Country Team and/or individual protection agencies. Further information about ProCap and other protection stand-by arrangements visit <http://ocha.unog.ch/ProCap/Online>.



References and Tools

General Collaborative Response

- *Human Rights Guidance Note for Humanitarian Coordinators*, IASC, June 2006.
- *Humanitarian Response Review*, OCHA, 2005.
- *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams*, IASC, Sept. 2004.
- *Protect or Neglect: Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, OCHA/Brookings-SAIS Project on Internal Displacement, 2004.
- *Protection of Internally Displaced Persons*, IASC Policy Paper, 1999.
- *Revised terms of reference for the Humanitarian Coordinator*, IASC, 2003.

Cluster Approach

- *Generic Terms of Reference for Sector/Cluster Leads at the Country Level*, IASC, Nov. 2006.
- *Guidance Note on the Using the Cluster Approach to Strengthen Humanitarian Response*, IASC, 2006. Also available in Arabic and French.
- *Operational Guidance on Designating Sector/Cluster Leads in Major New Emergencies, and Operational Guidance on Designating Sector/Cluster Leads in Ongoing Emergencies*, IASC, May 2007.
- *Protection Cluster Working Group Mission statement and Terms of Reference*, 2007.
- *Questions and Answers on the Cluster Approach and Cluster Implementation Issues*, OCHA, 2006.

The above publications and other information is available at www.humanitarianreform.org



Useful websites

- Global Protection Cluster Working Group: www.humanitarianreform.org/humanitarianreform/Default.aspx?tabid=79
- Humanitarian Reform: www.humanitarianreform.org
- Inter-Agency Standing Committee: www.humanitarianinfo.org/iasc/content/default.asp
- Humanitarian Appeal: www.humanitarianappeal.net
- Central Emergency Response Fund: <http://ochaonline2.un.org/Default.aspx?tabid=8770>
- Financial Tracking Service (FTS): <http://ocha.unog.ch/fts2>
- Protection Standby Capacity Project (ProCap): <http://ocha.unog.ch/ProCapOnline>

ANNEX 1

Generic Terms of Reference for Sector/Cluster Leads at the Country Level IASC, November 2006

The Cluster Approach operates at two levels. At the global level, the aim is to strengthen system-wide preparedness and technical capacity to respond to humanitarian emergencies by designating global Cluster Leads and ensuring that there is predictable leadership and accountability in all the main sectors or areas of activity. At the country level, the aim is to ensure a more coherent and effective response by mobilizing groups of agencies, organizations and NGOs to respond in a strategic manner across all key sectors or areas of activity, each sector having a clearly designated lead, as agreed by the Humanitarian Coordinator and the Humanitarian Country Team (to enhance predictability, where possible, this should be in keeping with the lead agency arrangements at the global level).

The Humanitarian Coordinator, with the support of OCHA, retains responsibility for ensuring the adequacy, coherence and effectiveness of the overall humanitarian response and is accountable to the Emergency Relief Coordinator.

Sector/cluster leads at the country level are accountable to the Humanitarian Coordinator for facilitating a process at the sectoral level aimed at ensuring:

Inclusion of key humanitarian partners

- Ensure inclusion of key humanitarian partners for the sector, respecting their respective mandates and programme priorities.

Establishment and maintenance of appropriate humanitarian coordination mechanisms

- Ensure appropriate coordination with all humanitarian partners, including national and international NGOs, the International Red Cross/Red Crescent Movement, IOM and other international organizations, through the establishment/maintenance of appropriate sectoral coordination mechanisms, including working groups at the national and, if necessary, local levels;
- Secure commitments from humanitarian partners in responding to needs and filling gaps, ensuring an appropriate distribution of responsibilities within the sectoral group, with clearly defined focal points for specific issues where necessary;
- Ensure the complementarity of different humanitarian actors' actions;
- Promote emergency-response actions while at the same time considering the need for early recovery planning and prevention and risk-reduction concerns;
- Ensure effective links with other sectoral groups;
- Ensure that sectoral coordination mechanisms are adapted over time to reflect the capacities of local actors and the engagement of development partners; and
- Represent the interests of the sectoral group in discussions with the Humanitarian Coordinator and other stakeholders on prioritization, resource mobilization and advocacy.

Coordination with national/local authorities, State institutions, local civil society and other relevant actors

- Ensure that humanitarian responses build on local capacities; and
- Ensure appropriate links with national and local authorities, State institutions, local civil society and other relevant actors, such as peacekeeping forces, and ensure appropriate coordination and information exchange with them.

Participatory and community-based approaches

- Ensure utilization of participatory and community-based approaches in sectoral needs assessment, analysis, planning, monitoring and response.

Attention to priority cross-cutting issues

- Ensure integration of agreed priority cross-cutting issues, such as age, diversity, environment, gender, HIV/AIDS and human rights, into sectoral needs assessment, analysis, planning,

monitoring and response; contribute to the development of appropriate strategies to address these issues; ensure gender-sensitive programming and promote gender equality; ensure that the needs, contributions and capacities of women and girls, as well as men and boys, are addressed.

Needs assessment and analysis

- Ensure effective and coherent sectoral needs-assessment and analysis, involving all relevant partners.

Emergency preparedness

- Ensure adequate contingency planning and preparedness for new emergencies.

Planning and strategy development

Ensure predictable action within the sectoral group for:

- Identifying gaps;
- Developing/updating agreed response strategies and action plans for the sector and ensuring that these are adequately reflected in overall country strategies, such as the Common Humanitarian Action Plan (CHAP);
- Drawing lessons learned from past activities and revising strategies accordingly; and
- Developing an exit, or transition, strategy for the sectoral group.

Application of standards

- Ensure that sectoral group participants are aware of relevant policy guidelines, technical standards and relevant commitments that the government has undertaken under international human rights law; and
- Ensure that responses are in line with existing policy guidance, technical standards, and relevant government human rights legal obligations.

Monitoring and reporting

- Ensure adequate monitoring mechanisms are in place to review the impact of the sectoral working group and progress against implementation plans; and
- Ensure adequate reporting and effective sharing of information, with OCHA support, with due regard for age and sex disaggregation.

Advocacy and resource mobilization

- Identify core advocacy concerns, including resource requirements, and develop messages for broader advocacy initiatives by the HC and other actors; and
- Advocate for donors to provide funding for humanitarian actors to carry out priority activities in the sector concerned, while at the same time encouraging sectoral group participants to mobilize resources for their activities through their usual channels.

Training and capacity-building

- Promote/support training of staff and capacity-building of humanitarian partners; and
- Support efforts to strengthen the capacity of the national authorities and civil society.

Provision of assistance or services as a last resort

- As agreed by the IASC Principals, sector leads are responsible for acting as the provider of last resort (subject to access, security and availability of funding) to meet agreed priority needs and will be supported by the HC and the ERC in their resource-mobilization efforts in this regard.
- This concept is to be applied in an appropriate and realistic manner for cross-cutting issues such as protection, early recovery and camp coordination.

Humanitarian actors who participate in the development of common humanitarian action plans are expected to be active partners in assessing needs, developing strategies and plans for the sector, and implementing agreed priority activities. Provisions should also be made in sectoral groups for those humanitarian actors who may wish to participate as observers, mainly for information-sharing purposes.

ANNEX 2

Checklist: Establishing a Protection Working Group

Establishing an inter-agency forum where protection issues are regularly discussed can be critical for ensuring that these concerns are addressed effectively, comprehensively and in a coordinated protection response. In any given situation, the specific shape that such a protection working group takes will depend upon an assessment of the context, taking into account any other protection coordination forums at the local, national or international level that already exist. When setting up such a forum, it is essential to consult with the Humanitarian Coordination and Country Team.

Initial Phase: Establishing a Protection Working Group

- **Identify and assess any existing protection coordination arrangements and structures**, international and national, ensuring that any protection working group that is to be established complements and coordinates with these mechanisms.
- **Identify all relevant partners.** These should include all human rights, humanitarian and development actors that form part of the UN and broader international inter-agency country team. It might also include national partners, both government and NGOs (see below on Participation and the Box above on the relationship between national authorities and protection working groups).
- **Convene** all relevant stakeholders within the country team to discuss and come to agreement on the following issues:
 - **Terms of reference:** These should be based on the generic terms of reference for cluster/sector leads at country level (see Annex 1), adapted to the particular context and the common priorities of key protection actors. While information-sharing might be among the aims, the role of the PWG must not be limited to this, but be **strategic and action-oriented, focused on ensuring a coordinated and comprehensive protection response.**
 - **Chairing arrangements:** Various chairing arrangements are possible. Preferably, the cluster lead agency for protection will chair or at least co-chair with a partner agency/NGO. It might be decided to rotate responsibility for chairing periodically among the different participating agencies. However, overall responsibility and accountability for the work of the PWG rests with the lead agency.
 - **Coordination arrangements:** These should mirror arrangements adopted at the global level, taking into account the local context and existing operational capacities. The establishment of task-forces, sub-working groups or focal points on specific issues might facilitate the work of the group. It is important to consider whether a country-level PWG will suffice or will whether regional/local PWGs also be required and, if so, to ensure that these different levels of PWGs coordinate effectively with one another.
 - **Participation:** The PWG should be a broad-based inclusive forum for protection actors. All international agencies and NGOs that are engaged in protection should be invited, whether as participating agencies or as observers. The PWG should discuss and decide upon the participation of local NGOs/civil society and how the PWG will relate to national/local and other authorities.
 - **Meeting arrangements:** How often the PWG will meet and who will take responsibility for convening meetings, drafting the agenda, recording meeting notes and action points for follow-up must be clearly agreed upon. It will usually be most practical for the lead agency and chair of the PWG to assume these functions.

Ongoing:

- **Meet regularly;** at least monthly; in emergency contexts, meeting more frequently, even weekly, might be advisable; set clear agendas.
- Ensure that the discussion goes beyond information-sharing and is **action-oriented**, resulting in agreed action-points, with clearly defined responsibilities and time-frame for implementation.

- **Follow up** on agreed action points, revisiting these at subsequent meetings, particularly if implementation is outstanding.
- Maintain regular contact and close **cooperation and coordination with any other PWGs** established in the country, such as between the national PWG and any regional/local PWGs), sharing information on protection activities and concerns and developing, as appropriate, joint response strategies. Support and assistance may be sought from the global-level PWG as needed.
- Ensure that the work of the PWG is in line with international **standards, laws, policies and good practice**, including the humanitarian principles of independence and impartiality, and that adequate safeguards are put in place to maintain the confidentiality of protection information that could put individuals at risk.
- Ensure that **cross-cutting issues**, including age, gender and diversity, HIV/AIDS, the environment and early recovery issues, are mainstreamed into the work of the PWG and into the activities of individual partners.



Part II

ATTITUDES AND SKILLS

*Photo Roald Høvring/Norwegian Refugee Council (NRC)
NCR staff discussing with members of an IDP community in Liberia.*

Part II: Attitudes and Skills

Protecting internally displaced and other affected communities requires not just knowledge, but the right **attitudes** and **skills**. Many of these are not inherent in people; however, they can be developed and refined over time, at both the individual and institutional levels.

Chapter 1

Attitudes

An attitude is the **manner of behaving, feeling or thinking that demonstrates a person's disposition or opinion**. The attitude of a humanitarian worker can benefit or damage an operation greatly and, with it, the quality of protection enjoyed by IDPs and other affected communities.

Demonstrating attitudes

1. Respect core humanitarian principles

What is it?	<ul style="list-style-type: none">• Being humanitarian requires respect for the basic principles of humanitarianism, including the humanitarian imperative, neutrality, independence and impartiality. These are outlined in Part I.1 of this Handbook and are also often reflected in the codes of conduct of various humanitarian agencies.
Why is it important?	<ul style="list-style-type: none">• It is the foundation of every humanitarian agency's mandate.• It helps ensure that all humanitarian workers, regardless of which agency they represent, share a common vision and direction. All activities, ranging from recruiting staff to developing a protection strategy or negotiating with non-State actors must be based on these principles.• Compromising these principles affects the agency, the image of other humanitarian actors and, consequently, the impact of our collective response. For example, actors who perceive humanitarian agencies to be partial may not provide access to IDPs in areas under their control. This may compromise the protection of IDPs and the security of the humanitarian community.• If agencies are not able to work in a country without compromising these principles, a review of the value and purpose of humanitarian action and presence should be undertaken.
How can it be enhanced?	<ul style="list-style-type: none">• Assess how planned activities, including those of operational partners, adhere to or violate these core principles. Ensure that all activities are in line with the core principles.• Train all humanitarian actors, regardless of their function, on the core principles and how they can demonstrate them in their work, such as through a code of conduct.• Be aware of the political environment in which we operate and the perceptions that stakeholders may have of us or our work. This helps to avoid misperceptions of bias or political manipulation.• Be transparent and consistent when carrying out activities and entering into a dialogue with <u>all</u> stakeholders. Inform interlocutors, partners and the public of the basis for our action, criteria for our decisions and overall goals.

2. Remain open-minded

What is it?	<ul style="list-style-type: none"> Humanitarian workers need to be receptive to new and different ideas and the opinions of others to best effect a humanitarian mandate.
Why is it important?	<ul style="list-style-type: none"> Humanitarian agencies usually work in support of and upon the invitation of a government and/or a community. While we bring technical and other essential resources, we often lack local knowledge and should do not assume we know everything or can impose our views on a government or a community. Open-mindedness enhances the capacity to work in different cultural environments with people from different nationalities, ethnicities and socio-economic background. It helps to develop an understanding of complex situations, which allows for better planning and more appropriate interventions. It helps to deal with complex negotiations and is essential for effective leadership and coordination (see sections 2.3 and 2.5 below).
How can it be enhanced?	<ul style="list-style-type: none"> Improving listening and genuine inquiry skills (see section 2.2). Learning about developmentally appropriate ways to work with children and ensure their ideas and opinions are taken into consideration. Understanding personal prejudices and minimizing their impact on our work. Reviewing discussions with colleagues and other partners when views diverged and conflicts arose with the aim of understanding why this happened and how such situations could have been resolved differently. Through continuous learning, both formal and informal. It exposes us to a range of interests and issues and broadens our horizons.

3. Be positive and proactive

What is it?	<ul style="list-style-type: none"> Remaining positive, in this context, is to believe that a situation can be improved and solutions achieved. The complexity of an operation should not prompt despair. Being proactive is to seek ways to improve programmes and interventions rather than reproduce activities by rote. This includes seizing opportunities rather than remaining passive.
Why is it important?	<ul style="list-style-type: none"> Humanitarian workers are required to deal with the consequences of violence, conflict or natural disasters that have devastating effects on thousands of lives. The magnitude of the crisis, disorganization, lack of resources, security concerns, over-whelming amounts of information, policy gaps, failed negotiations and poor living conditions can all lead to feelings of negativity and resignation. Negative emotions can affect an individual, spread throughout a team and adversely affect an operation. As humanitarian agencies can sometimes be the last hope for IDPs and other affected communities, humanitarian workers are entrusted with that hope and have the duty to deploy all efforts and energy to protect persons of concern. It helps in finding the right approach, identifying opportunities, being creative and making decisions that are in the best interests of IDPs and others of concern. It contributes to effective protection interventions, successful negotiations, and sustainable partnerships and ensures that a team works effectively and energetically. It is essential for leading a team, an operation or a project, and is also necessary to ensure the welfare of colleagues. It can help humanitarian workers control their environment rather than letting the environment control them.



<p>How can it be enhanced?</p>	<ul style="list-style-type: none"> • Taking care of oneself by eating and resting well, even during emergencies in hardship locations is essential • Finding a safe way to dispel frustrations regularly, such as by talking with colleagues or friends, exercising, spending personal time away from colleagues, and maintaining personal space in crowded living conditions, is helpful. • Staff welfare, improvements in living conditions and peer-support networks are essential for keeping staff morale high. • Team-building exercises are useful and help team members to learn to support each other. • Strong leadership that empowers all staff and provides focus in the operation is crucial in keeping a team motivated.
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4. Remain empathetic

<p>What is it?</p>	<ul style="list-style-type: none"> • Empathy is the ability to identify oneself with the situation of others. Empathy should not be confused with being emotionally involved with a situation, which can mar objectivity, adversely affect standards of professionalism, and be perceived as bias by various parties, which, in turn, can compromise the neutrality of an operation.
<p>Why is it important?</p>	<ul style="list-style-type: none"> • It helps to understand the situation and the concerns of IDPs and affected communities, to build trust, and to encourage others to share their views and concerns, thus improving planning and programming. • It helps to understand the concerns of humanitarian partners, governments and colleagues that might be difficult to express publicly but nevertheless affect a humanitarian operation. It helps to be tactful in sensitive situations and to enhance partnerships and negotiations. • It helps to respond to personal and professional concerns of colleagues, not least to maintain an effective team.
<p>How can it be enhanced?</p>	<ul style="list-style-type: none"> • Managers can help sensitize their teams and partners on the root causes of protection concerns and the challenges that displaced persons face every day. This may help staff better understand and commit to protecting IDPs and other affected communities. • Participatory assessments and planning bring humanitarian workers closer to IDPs and affected communities. It encourages humanitarian workers to understand the situation of IDPs and simultaneously empowers IDPs to claim ownership of a programme. This process also helps to build empathy towards IDPs. • Active listening can help to ensure that humanitarian workers understand others before they make themselves understood. It also leads to a more empathetic approach to discussions and communication.

5. Be a team player

<p>What is it?</p>	<ul style="list-style-type: none"> • The ability and willingness to work together with other colleagues and organizations.
<p>Why is it important?</p>	<ul style="list-style-type: none"> • We all have the same goal: To ensure protection and provide assistance to affected communities. However no single individual or agency has the capacity or ability to deal with the range of issues that need to be addressed in a humanitarian operation. • Resources, which are frequently limited, need to be shared and used optimally. • Working alone will not only adversely affect the quality and impact of an intervention by an individual or an agency, but that of the broader humanitarian community, and consequently the situation of IDPs and other affected populations themselves.




<p>How can it be enhanced?</p>	<ul style="list-style-type: none"> • Work with other humanitarian organizations and participate in joint activities where needed and beneficial. Share information (be transparent), ensure that communication channels are open at all times, and avoid keeping “hidden agendas.” • Actively seek the views and ideas of colleagues and other partners and respect their contributions. Try to understand their positions, even if you might not agree with them. • Put aside personal interest and considerations and be ready to adapt your priorities to those of the team. • Offer constructive criticism, but avoid being pessimistic. Persuade, but do not force ideas onto others. • Share successes and failures with the team, bring problems out in the open and actively seek to resolve them. • Be flexible. Avoid being “territorial” over an issue; be as inclusive as possible. • Encourage team-building activities and spend time helping others who need support.
<p>6. Be self-aware</p>	
<p>What is it?</p>	<ul style="list-style-type: none"> • A personal understanding of ourselves, especially our strengths and weaknesses, and our personal biases and prejudices.
<p>Why is it important?</p>	<ul style="list-style-type: none"> • Self-awareness allows us to acknowledge and use our strengths to support an operation and simultaneously work towards improving our weaker areas. This can include gaps in knowledge, skills or other attitudes. • Maximizing and building on individual strengths within a team optimizes the effectiveness and impact of a team and mitigates weaknesses. • Ignoring weaknesses leads us to perpetuate them at the expense of the displaced and other persons we serve and colleagues with whom we work.
<p>How can it be enhanced?</p>	<ul style="list-style-type: none"> • Review the day/week’s events and determine what went well, and why, as well as what could have been done better. • Take psychometric and emotional quotient tests, available in management courses or on the Internet, to establish personal strengths and areas for improvement. • Discuss with and seek constructive feedback from colleagues, friends and family regularly. Our personal behaviour is often reflected in our professional lives.

Chapter 2

Skills

A skill is a **talent or ability that is acquired and developed through training or experience**. Refining a skill and adapting it to an ever changing humanitarian operation can often be difficult. While various learning opportunities and courses can be useful in developing and refining some of these skills, the right attitude and approach, a good supervisor and a supportive environment also help.

1. Analysis and problem-solving

Analysis refers to a detailed study of an issue in order to find new information or reach a better understanding. Situational analysis is one type of analysis undertaken by humanitarian agencies. Analysis is also necessary when monitoring human rights and IDP operations, planning a negotiation or when designing a protection intervention. **Problem-solving** is often a natural consequence of analysis and an essential aspect of every humanitarian worker's function (see Part III.2). 

Approaches to effective analysis and problem-solving

- **Collect Data:** Collecting relevant information from a variety of sources and compiling it in a systematic manner is the first step to proper analysis and problem-solving. Sources can be **primary sources** (including first-hand accounts, such as interviews with persons of concern or government officials, policy documents and/or legislation) or **secondary sources** (which can include the media, human rights reports, and reports by other humanitarian agencies).

Since the quality and quantity of data collected affects the analysis, the data has to be credible, relevant, sufficient and verifiable. From the outset, attention must be paid to the methodology of information gathering, the ethics of interviewing, confidentiality of information, and the safety of the interlocutors and staff. It is also useful to determine how the data will be processed before collecting it, and to ensure that humanitarian agencies do not duplicate efforts when collecting data.

- **Think critically:** Critical thinking is the ability to interpret and evaluate information, observations and arguments with the aim of determining what to believe and what action to take. Critical thinking ensures that the data collected is properly interpreted so that the conclusions reached most accurately reflect the reality of the situation and the actions agreed are the most appropriate.
- **Be solutions-oriented:** Humanitarian workers undertake analyses with the view of responding appropriately to a problem. This requires that they be creative and think of possible solutions to problems at all times. Being solutions-oriented is also an important leadership quality. Pre-conceived notions, lack of effective analyses as well as unclear and orthodox thinking often results in ineffective solutions.

2. Communication

Communication is the basis of all our work and is used extensively during interviews, assessments, negotiations, when coordinating or demonstrating leadership, advocating for a position, and building trust with persons of concern, the authorities and humanitarian partners. Refining our communication skills is therefore of vital importance.

Approaches to effective communication

There are various types of communication, including active listening, oral, non-verbal, written and visual communication. The guide below should be read bearing in mind:

- **The cultural context:** Different cultures and communities frequently communicate differently. To avoid misunderstandings, it is important to keep an open mind and spend time understanding how people communicate in their culture and the meaning of specific words, expressions, mannerisms, tones and approaches.
- **Gender differences:** Working with men and women of different ages and in various cultures might require different approaches and different ways of speaking.
- **Age differences:** A child’s developmental stage must be considered when working with children. Effective and ethical communication with children requires age-appropriate communication skills and methodologies.

Note: Avoid intimidating, condescending or otherwise inappropriate communication styles. Special care must be taken when working with children or persons with specific concerns, including victims/survivors of torture or sexual violence. A specialist may be required for highly sensitive cases.

<p>2.1 Active Listening</p>	<p>What is it and why is it important?</p> <p>Active listening refers to the ability to listen and understand people without any pre-conceived notions. Active listening helps in obtaining information, broadening our horizons, and building trust with, and respect for, other people. It can also help in “reading between the lines.” Listening does not indicate that you necessarily agree with the person; rather, it shows that you understand, and are willing to consider, what the person is saying.</p> <p>Barriers to active listening</p> <p>The lack of interest in a subject, pre-conceived notions about an issue or subject, focusing on the speaker rather than the issue, physical distractions, time constraints and cultural differences, beliefs and attitudes are some reasons why we don’t listen actively. This is demonstrated by negative body language, by a willingness to be distracted by other people or things, and/or by not responding appropriately.</p> <p>Tips for active listening</p> <ul style="list-style-type: none"> ● Be physically attentive: Face the speaker, nod, maintain eye contact, if appropriate, and maintain an open posture (for example, avoid crossing arms). Do not be distracted by the environment. ● Remain interested yet neutral in the discussion to let the speaker feel more relaxed. ● Understand what is being said, including how it is being said, what is <i>not</i> being said, the tone of voice, and the emotions expressed by the speaker. ● Ask open questions and seek clarifications when necessary. Rephrase what the speaker says occasionally to clarify your own understanding of what was said. ● Do not interrupt or express your views until the speaker has completed his/her point.
<p>2.2 Oral communication</p>	<p>Why is it important?</p> <p>Oral communication refers not only to what is being said, but also how it is being said (paralanguage). It is important to ensure that oral communication is effective largely because the listening and retention capacity of most recipients is extremely limited.</p> <p>Barriers to oral communication</p> <p>Speaking to people about issues in which they have no interest, not addressing their primary concerns, not getting to the point, culturally different approaches to conversations, the tone of voice or rate of speech, and simple language barriers may all adversely affect oral communication.</p>

Tips for effective oral communication

- Determine the audience that you are speaking to. Ensure that what is said is appropriate to the environment (work or pleasure), culturally appropriate, relevant and spoken in a language that the audience understands.
- Encourage a discussion rather than a speech (unless a speech is being delivered), and ensure that active listening and proper body language is part of every discussion.

Think before speaking. If necessary, write down what you would like to say.

- Speak on issues with which you are comfortable. Admit you do not know something or will check something to ensure that what you say is credible.
- Speaking clearly and in short sentences helps communicate complex ideas. Ensure that key messages, such as action points and main findings, are highlighted in a presentation. Summarize the main points at the beginning or end of a discussion.
- Determine what feelings you would like to communicate by controlling the tone, volume and speed of what is said. Pauses, silences and emphasis on specific words also can communicate a feeling.

2.3 Non-verbal communication**What is it and why is it important?**

Non-verbal communication includes body language and facial expressions that reveal what a person feels or would like to say, but cannot or prefers not to. It helps to convey messages and underscore what is being said, but can also be misinterpreted, for instance owing to cultural or linguistic differences.

Barriers to non-verbal communication

Body language may be interpreted differently in different cultures. For instance, looking a person in the eyes can be interpreted as a sign of honesty, but also hostility, depending on the context. Individuals who are particularly expressive or emotional may inadvertently display their feelings when it might not be appropriate to do so.

Tips for effective non-verbal communication

- Be aware of natural facial expressions and body expressions that may be misinterpreted.
- Understand cultural differences that may be expressed through non-verbal communication.
- When listening, adopt a posture that ensures that you are seen to be listening. Maintain a neutral face when appropriate.
- Practice in teams, with other colleagues and friends, or film each other to see how you perform. Practice in front of a mirror to ensure that your body language communicates the same message as what is being said, including *how* it is said, through tone and emphasis.

2.4 Written communication**What is it and why is it important?**

Unlike oral or non-verbal communication, written communication is more permanent and cannot be retracted with ease. It is thus the most official manner of communication at work. Indeed, verbal agreements are often written down to mitigate the possibility of misunderstandings in the future. Written communication also provides fewer opportunities for error or mistakes.

Barriers to written communication

E-mails and letters cannot communicate a tone or feeling as easily as speaking. Written messages can sound overly formal, be circulated to a wider audience than initially anticipated, and be misinterpreted or misunderstood, in particular in a multi-cultural environment where people have different working language skills. Details such as spelling, punctuation and grammar can also affect the reader.



Tips for effective written communication


- Write keeping the primary audience in mind at all times. To the extent possible, avoid writing for a variety of audiences in the same communication.
- Use short and simple sentences and avoid complex words or long paragraphs (6-8 lines maximum). Remember to date the document and include filing or reference numbers if needed.
- Explain, at the beginning, what a letter or memoranda is about, how it concerns the reader and what is being requested of him/her. This can be followed by more detailed background information.
- Summarize the main findings/recommendations/highlights of reports and other longer documents at the beginning to ensure that the main messages are effectively communicated to the reader.
- Pay attention to detail and ensure that the document does not transmit inaccurate or inappropriate tone to the reader: poor choice of words, bad grammar and misspellings reflect badly on the writer. Always proofread a document before it is shared publicly. It can sometimes help to read the document again, after a short break, to verify its accuracy and content, or ask a colleague to review it.
- Ensure that official letters and communications are formal in vocabulary, grammar, punctuation and tone at all times.

The approach to a situation will determine the type of communication used. For example:

Advocacy	Inquiry
<p>Where we express our own perspective, opinions and reasoning more frequently and share what we think.</p> <ul style="list-style-type: none"> • State assumptions • Explain your reasoning • Describe the context • Provide examples • Invite testing of your assertions • Reveal where you are least clear or least sure of your assumptions • Refrain from being defensive <p>Examples: <i>"Here's what I think, and this is how I got to this conclusion..."</i> <i>"I assumed that..."</i> <i>"Does my thinking make sense to you?"</i> <i>"Is there anything that I said that does not make sense?"</i> <i>"I'm unclear about this aspect and maybe you can help me think this through."</i></p>	<p>Where we seek to understand fully the perspective, opinions and reasoning of others and look into what we do not know yet.</p> <ul style="list-style-type: none"> • Gently probe to understand • Draw out other people's reasoning • Explain the reason for inquiring • Ask for examples • Check your understanding • Listen with an open mind • Refrain from preparing to destroy the other person's agenda or promote a separate own agenda <p>Examples: <i>"What is it that leads you to say that?"</i> <i>"What are you basing your conclusions on?"</i> <i>"Can you help me understand your thinking here?"</i> <i>"Can you provide me with an example of ...?"</i> <i>Have I correctly understood you when you say....?"</i></p>

3. Negotiations

A negotiation is a discussion between two or more parties with the aim of reaching an agreement on specific issues. It is a process through which you determine what you want and how you will achieve it, and through which you learn what the other party wants and how to satisfy them enough to reach an agreement.

Negotiations take place several times a day in a humanitarian operation among a variety of actors: Governments, civil society, the IDP and affected communities, humanitarian agencies and non-State actors. Humanitarian agencies regularly negotiate on issues as diverse as gaining physical access to displaced persons in situations of armed conflict – also known as “humanitarian negotiations” (see Part IV.2)  – ensuring that communities send girls to schools, or determining how to raise public awareness about gender-based violence.

Myths and misconceptions regarding negotiations:

- a. **Negotiation is a natural ability: *False!*** While some people are able to demonstrate negotiating skills better than others, most negotiators have developed their skills through learning and experience.
- b. **Experience is enough: *False!*** Many people keep making the same mistakes despite negotiating frequently. Analyzing and learning from experience take a lot of effort, but it is essential. A good mentor, courses and books on negotiation can also help.
- c. **Good negotiators often improvise: *False!*** Successful negotiations require good preparation that anticipates various scenarios and factor in some degree of flexibility. Planning a negotiation is often the most critical, yet underrated, phase of any negotiation process. Poor planning is often cited as the most common reason for a failed negotiation.
- d. **Negotiators rely on intuition: *False!*** Critical to a good negotiation is the ability to understand yourself and the people you are negotiating with, and to respond to their concerns.

Simple negotiations can involve two individuals discussing an issue face-to-face and reaching an agreement in a single meeting. More complex negotiations, such as those that precede peace agreements, may require a phased approach, detailed preparations and a series of discussions (face-to-face, exchange of letters and/or phone calls) over a period of time among a range of parties representing a variety of interests. Despite the varied nature of negotiations, there are some common approaches that may help reach a successful outcome:

Approaches to effective negotiations

3.1. Prepare: Preparing for a negotiation is crucial. Steps include:

- **Understand the issue:** Understand the issue and how best to achieve your objective. This will help determine whether a negotiation is needed, whether the issue at hand is negotiable, and, if so, what needs to be negotiated, how and with whom.
- **Establish a “bottom line”:** Decide on what issues you are not willing to compromise (the “bottom line”). The human rights standards and principles of humanitarianism that form the basis for our work, such as neutrality, must not be compromised and should thus form the broad “bottom line” of any negotiation.
- **Decide on a BATNA:** “The best alternative to a negotiated agreement” (or BATNA) refers to the action that needs to be taken if the negotiation will not succeed in meeting the bottom line. It not only provides a safety-net but, when carefully planned, can also be used as leverage in a negotiation. For example, if a negotiation to access IDP areas has failed been denied, it may be necessary to make members of the international community aware of this problem; the other party may wish to avoid this. This must be carefully planned, as the tactic can backfire if it is perceived as a threat by the counterpart.
- **Determine your representative, counterpart and communication channel:** The parties involved in the negotiation should have a stake in the issue or be legitimate representatives of those that do. Respect government and agency protocol at all times. When necessary, work through or with **intermediaries**, such as national NGOs or former government officials, who may have better access and credibility with the counterparts. The Humanitarian Coordinator may help in resolving issues of a sensitive

nature and can represent organisations that wish to address common concerns (collective bargaining). Determine what channels of communication will be used, whether face-to-face meetings, an exchange of letters or both.

- **Understand the other perspectives:** Analyze, understand and **anticipate the views** of the other parties prior to the negotiation. A proper understanding of other parties is often achieved through direct contact over time. Focus on **common areas of concern** and understand how **differences** can be narrowed or eliminated.
- **Understand power relations:** Power relations are often determined by the bargaining power of each party to a negotiation. Humanitarian actors can be perceived to be in a weaker position than government counterparts, IDP communities and even non-State actors if they do not have anything to offer that is of interest to the other party. Being “right” or doing “the right thing” will not necessarily place a party in a strong negotiating position. When in a weaker position, it might be helpful to resort to **collective negotiations**, which are undertaken by a group of agencies rather than individual agencies. Do not abuse a situation in which you are in a stronger position, as that might undermine your ability to establish trust and long-term relationships.
- **The approach:** Determine whether the negotiation approach will be **soft** (between parties that trust each other), **hard** (in adversarial situations), or **principled** (focusing on the issues rather than the people).
- **The time and location:** Select a location and time where the parties are not distracted by other issues. Negotiations should be reasonably time-bound so that the parties do not lose track of their objective. It also places some pressure on parties to reach an agreement.

3.2. Communicate effectively

Follow up: Negotiations often require that parties either implement a final agreement or undertake various activities in preparation for the next meeting. These activities and preparations should be undertaken in a timely manner to maintain credibility and ensure that the agreement is not breached by any party for lack of follow-up. Provide feedback on these follow-up actions to all parties to keep the negotiated agreement intact and continue to build trust between the parties.

Prepare for a breakdown of negotiations: In the event of a breakdown of negotiations, you should not only analyze why the negotiation was unsuccessful, but also take the next steps to achieve your objective through a BATNA. Given the issues at stake, humanitarian workers may find that it is imperative to return to the negotiating table to resolve all outstanding issues and reach a final agreement.

Improvised negotiations may occur during a security incident, such as an unexpected roadblock or an ambush. These are not discussed in this chapter. It is best to refer to security guidelines for information on these kinds of negotiations.

Checklist for effective negotiations

a) Pre-negotiations

Issue	Activity	Check
1. The Issue	<p>There is a clear reason why a negotiation is necessary on a particular issue.</p> <p>Tips:</p> <ul style="list-style-type: none"> ● Review all documentation relevant to the issue. Speak to persons who may be more familiar with the issue. Consider how the matter might have been addressed on other occasions, including success and failures. 	[]

2. My Position	<p>The objectives, bottom-line and BATNA have been prepared. []</p> <p>Tips:</p> <ul style="list-style-type: none"> • Ensure that your objective is realistic and can be accepted by all parties. • Be willing to consider options that may be tabled by other parties. • Determine what issues cannot be compromised (“bottom-line”) • Prepare a BATNA and use it to measure the success of the negotiation, as leverage during the negotiation, and/or to determine the next steps if the negotiation fails. • Consider collective bargaining on behalf of other parties as well if it strengthens your position and does not adversely affect the outcome.
3. The Parties	<p>The parties to the negotiation have been determined. []</p> <p>Tips:</p> <ul style="list-style-type: none"> • The persons who will be negotiating are authorized to act on behalf of the agency, either as a messenger or as a decision-maker. • Consider using an intermediary before or during the negotiation if he/she is better placed to further my position or better understand the other party’s position. • Complex negotiations may involve a range of individuals and/or parties, and may require the intervention of the Humanitarian Coordinator.
4. Their Position	<p>The other parties/concerns have been anticipated. []</p> <p>Tips:</p> <ul style="list-style-type: none"> • Determine the possible common areas of interest shared by all parties prior to the negotiation. • Understand the potential differences among all parties prior to the negotiation, understand the reasoning behind them and determine how best to bridge these differences.
5. Power Relations	<p>The power relations between the parties and the source of this authority are understood. []</p> <p>Tips:</p> <p>Sources of power can vary and must be understood:</p> <ul style="list-style-type: none"> • Organizational power refers to the authority one has to represent a well-respected or credible organization. • Reward power relates to what an agency or individual can provide the other party. Financial resources, food, shelter and other items that humanitarian agencies can provide can serve as sources of power. • Coercive power relates to the ability of a party to levy sanctions, bring shame or withdraw support, such as when a humanitarian agency informs the international community that it is being denied access. • Information power is essential for anticipating and addressing the other party’s interests with the aim of reaching an agreement. This power is often denied to humanitarian agencies by preventing them from accessing displaced persons. Humanitarian agencies that prepare their BATNA effectively can often overcome this obstacle. • Legitimate power is the authority vested in a person by the organization or society to represent its interests. • Referent power refers to the power an individual derives from his/her community due to the respect, admiration or prestige s/he enjoys with them. Natural leaders in a community often possess this power and are in a stronger position to represent their community. • Expert power is derived from a special knowledge, skill or expertise that others may not possess.



	<ul style="list-style-type: none"> • Connection power refers to the perception or reality that an individual is well known and can influence other allies. Intermediaries to a negotiation often possess this power. • Avoid abusing a strong position as it can undermine trust and a long-term relationship. 	
6. The Approach	<p>The approach to use during the negotiation has been determined (hard, soft, and principled).</p> <p>Tips:</p> <ul style="list-style-type: none"> • A soft approach is often used between those who work well together and trust each other. The goal is to reach an agreement, and concessions are made on both sides to cultivate the relationship. Both parties are fully transparent and conflict is generally avoided. • A hard approach is often adapted between adversaries where one party wins at the other's expense. There is often no trust between the parties. This approach does not strengthen long-term relations and might even place IDPs at risk. This is not an approach that humanitarian workers are encouraged to use with regard to protection issues, but it might be necessary in extreme cases. • A principled approach is used when all parties want to focus on the issue and solve a problem, rather than take opposing positions. Parties do not focus on the people but on the issue at hand, try to understand all positions, and find common ground. This helps to develop a trusting and long-term relationship among parties and identify solutions. Both parties must agree to use this approach, which doesn't always happen. Over time, however, it might be possible for one party who remains principled to gain the trust of another party and use this approach in subsequent negotiations. 	[]
7. Location and Time	<p>The location and time suits all parties and will not adversely affect the negotiations.</p> <p>Tips:</p> <ul style="list-style-type: none"> • Ensure that the location and time is convenient to all parties and that it does not distract them from the issues at hand. • An agreement may not always be forthcoming at the first meeting; other interactions might be necessary. 	[]

b) During Negotiations

Issue	Activity	Check
8. Communication	<p>Appropriate communication skills, especially listening skills, are used to ensure that the position of the other parties is better understood and that the issue at hand is appropriately addressed.</p> <p>Tips:</p> <ul style="list-style-type: none"> • See section on communication skills. 	[]
9. Building Trust	<p>Efforts have been made to build trust with the other parties involved.</p> <p>Tips:</p> <ul style="list-style-type: none"> • Share information, be transparent with all parties, follow-up on issues you are responsible for, and remain committed to finding a solution that is acceptable to all parties. 	[]



10. The Issue and Positions	<p>The positions of the other parties are clearly understood during the negotiations. []</p> <p>Tips</p> <p>During difficult negotiations, it is important to look out for and address specific approaches. In particular:</p> <ul style="list-style-type: none"> • Intimidating environment: Negotiators can create an intimidating environment, either through the physical layout of the room or by the tone and nature of their comments. Acting confidently or even asking for a break may help dispel that atmosphere. • “Good-guy/bad-guy” routine: At times, a negotiator could try to get an agreement by convincing his/her counterparts that he/she is “easier” to deal with than her/his colleagues. It might be best to confront the person on this issue with the aim of agreeing to focus on the issue and its merits. • Threats and anger: When people threaten others or display their anger, it can sometimes force others to compromise their position. This is best countered by either ignoring the anger or by defusing the situation by taking a break or talking to the person about what is really upsetting him/her. • “Take it or leave it”: There may be pressure to accept what is offered or nothing at all. This can be resolved by testing their commitment, temporarily breaking off negotiations, appealing to a sense of fairness and comparing their offer to the BATNA. • Claiming limited authority: The negotiator may claim that he/she has limited power to change the situation. This can be resolved by speaking directly to the decision-maker or treating the negotiator as a messenger. • Forcing deadlines (real or artificial): While negotiating within a limited period of time is useful, it can sometimes be forced and artificial. This can be addressed by questioning the reasoning behind the deadline and proposing alternative deadlines. If the deadline is real, determine whether the negotiation will bring any benefits within the limited time period.
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c) Post-negotiations


Issue	Activity	Check
13. Follow-up	<p>Follow up on issues that have been agreed upon.</p> <p>Tips:</p> <ul style="list-style-type: none"> • Remain in contact with all parties and provide updates on the progress • If the negotiation has failed, follow up on the fall-back options (BATNA). • Analyze why the negotiation has succeeded or failed to understand how to improve subsequent negotiations. 	[]

4. Leadership

Leadership is a process by which a person influences others to accomplish an objective and directs the team in a way that makes it more cohesive and coherent. Leadership is also required at an inter-agency level in humanitarian operations to ensure that agencies and cluster members coordinate efficiently to address the concerns of IDPs and other affected communities.

While a manager or supervisor is entrusted with the authority to accomplish certain tasks and objectives in the organization, leadership can be exercised from any position in an organization by using the right skills and attitudes. Like other skills and attitudes, they can be developed and enhanced with experience and training.

Approaches to effective leadership

- **Know your leadership style:** A key attitude required of all humanitarian workers is that of self-awareness (see *Chapter 1, Attitudes, above*) . Being aware of your personal leadership style will help improve it.

Leadership styles

There are six basic leadership styles. Many can be used simultaneously:

- **Coercive:** The leader demands immediate compliance (“Do what I tell you”). The leader is driven to achieve, has initiative and wants to remain in control. This leadership style is occasionally suitable in a crisis to kick start or to fix a problem, but generally has adverse effects on the atmosphere.
- **Authoritative:** The leader mobilizes people towards a vision (“Come with me”). The leader is self confident, empathetic and a catalyst for change. This is suitable when change and a new vision are required. It has a mostly positive effect on the atmosphere.
- **Pace-setting:** The leader sets high standards for performance (“Do as I do, now”). The leader is conscientious, driven and takes initiative. This style is helpful in getting quick results from a highly motivated and competent team, but can result in a negative atmosphere.
- **Affiliative:** The leader creates harmony and builds emotional bonds (“People come first”). The leader is empathetic, builds relationships and is an excellent communicator. This is a suitable style when trying to build teams and motivate people during stressful times. It has a positive effect on the atmosphere.
- **Democratic:** The leader forges consensus through participation (“What do you think?”). The manager is good at building partnerships and teams and is a good communicator. This approach is most useful to build consensus among staff. It frequent results in a positive atmosphere.
- **Coaching:** The leader aims to develop people for the future (“Try this”). The leader is empathetic, self aware and concerned about others. This is a useful style when helping staff improve performance and strengths. This often creates a positive atmosphere.

- **Know your team:** Be empathetic and aware of the strengths and weaknesses of individuals working with you and use these strengths to support the humanitarian operation. Be aware of the responsibilities of individuals and understand how they can best work together. Try to develop a team whose members can complement each other’s skills and personalities rather than duplicate them.
- **Support your team:** Look out for the personal and professional **well-being** of colleagues, help them **develop positive character traits** and **keep the team informed** of various developments so that they have a sense of ownership. This means that a leader must invest considerable time and effort to support a team, have **excellent communication skills**, and ensure that all members of the team are aware of what needs to be done and how. Building a team can often be a challenge and occasionally may require regular **team-building activities** or **training** before embarking on a project.
- **Be responsible and take responsibility:** Find ways to improve the way your organization works. Do not blame others for failures; rather, try to solve the problem. A leader needs to take **sound and timely decisions** in order to move ahead at work, rather than shift responsibility, and **prioritize activities** when the workload exceeds the financial and human resources available.

- **Be technically proficient:** Be aware of the technical aspects of the work that needs to be undertaken, the mandates of your agency and other agencies and governments, and the work of civil society. It facilitates effective coordination within the team and with partners.
- **Manage resources effectively:** Proper allocation and prioritization of often limited resources is important. Understanding and using additional resources effectively, such as additional funding or staff, technical expertise and support, will benefit the agency and the broader humanitarian community on the ground.

5. Coordination

Humanitarian coordination is “the systematic use of policy instruments to deliver humanitarian assistance in a cohesive and effective manner. Such instruments include strategic planning, gathering data and managing information, mobilizing resources and ensuring accountability, orchestrating a functional division of labour, negotiating and maintaining a serviceable framework with host political authorities and providing leadership.

5.1 Approaches to effective coordination

- **Determine what needs coordination:** It is not necessary to set up a sophisticated coordination mechanism when individuals and agencies are working well together. However, given the complexities of humanitarian operations, especially on protection issues, coordination is often required to develop a common understanding and response to an operation. Coordination involves sharing assessments and other information, agreeing upon and using common standards, tools and policies, ensuring that protection is mainstreamed in other clusters/sectors, prioritizing activities and allocating resources to further these priorities, reducing or eliminating overlaps in activities, representing a common position to governments, the media or other parties, and addressing cross-cutting issues, such as staff security.
- **Determine who needs to coordinate:** Coordination needs to take place within agencies, between agencies, and with governments, civil society and the IDPs themselves. All stakeholders should be included. In situations where there are a number of groups representing similar positions, representatives of those groups can meet, rather than every stakeholder. For example, inter-cluster coordination can take place primarily through the cluster leads. However, this does not preclude members of each cluster from working together on specific issues.
- **Determine coordination mechanism:** Coordination mechanisms may be formal, such as in a cluster-coordination mechanism, or informal, such as *ad hoc* communication between parties when necessary. The concerned parties might communicate through meetings, telephone conversations, e-mail exchanges or during joint activities. Any coordination mechanism should be agreed jointly by the parties involved.

In some cases, existing coordination mechanisms might not be effective or productive, or they might address issues that are not a priority. These may require a simple **realignment of the existing mechanisms**, not a new layer of coordination.

The best coordination mechanisms are those that **do not place significant time, human or other resource constraints** on the various agencies or individuals. This is particularly important for smaller agencies that may not be able to attend meetings or exchange e-mails regularly.

- **Coordinate, do not control:** A designated coordinator is not always necessary; various parties can agree to work together and build consensus. In some situations, especially in complex emergencies, where a specific coordinator is designated, he/she helps facilitate a process that ensures that various parties work together to achieve a common

objective. In such situations, a coordinator may also be authorized to take certain decisions on behalf of a group or represent the interest of the group with others. The coordinator needs to have negotiation, meeting-management and leadership skills; must remain neutral, objective and impartial; build consensus rather than dictate, and provide support to the various parties working together.

- **Demonstrate the value of coordination:** Frequently, stakeholders will only coordinate with each other if there is a tangible benefit in doing so. Some benefits of coordination include streamlining operations; raising and sharing human and financial resources; sharing information; raising the public profile of an agency; reducing workloads; resolving outstanding problems that an agency might not be able to address alone, and providing an umbrella under which smaller agencies can operate safely.

5.2 Checklist for effective coordination

<p>1. The Need</p>	<p>Better coordination is needed in order to improve the operation. []</p> <p>Tips:</p> <ul style="list-style-type: none"> ● Protection coordination mechanisms are essential in complex emergencies. ● The institutional framework is outlined in Part I.3 of this Handbook.
<p>2. The Purpose</p>	<p>The purpose and terms of reference for the coordination mechanism are agreed upon by the protection agencies and other partners. []</p> <p>Tips:</p> <p>Activities that often require coordination include:</p> <ul style="list-style-type: none"> ● developing a collective protection response, including through joint assessments, planning, and programming; ● agreeing on common standards, tools and policies and sharing of information; ● ensuring that protection is mainstreamed in other clusters/sectors ● raising and channelling funds together; ● sharing human, financial and other resources (office space, Internet access, vehicles) where necessary; ● prioritizing activities, reducing overlaps and ensuring that gaps are filled in a timely and appropriate manner; ● representing a common position to governments, the media or other parties; ● addressing cross-cutting issues, such as staff security.
<p>3. The Parties</p>	<p>Key humanitarian partners that will participate have been identified. []</p> <p>The potential role and participation of the government has been defined.</p> <p>The potential role and participation of representatives of civil society, including IDPs and other affected communities, has been determined.</p> <p>Tips:</p> <p>The government, UN agencies, international and national NGOs and other international agencies, such as ICRC and IOM, frequently need to work together.</p> <ul style="list-style-type: none"> ● Obtain contact details of key UN and NGO partners from the country office or from OCHA, which in emergencies may have the most recent contact list. ● Members of other clusters/sectors should be encouraged to participate in protection-related activities.




- The participation of **representatives of civil society**, including organizations of IDPs and other affected communities, can be valuable and should be considered, weighing the potential benefits against the risk they may face. The representatives should include both men and women and reflect a cross-section of the community. Participatory assessment and planning processes should be used in developing and implementing a protection strategy and other activities
- **The potential role and participation of the government** may be best determined after the protection mechanism is formed and its objectives have been agreed upon, and in consultation with the Humanitarian Coordinator.
- Different coordination structures may be necessary in different regions of a country or for different thematic issues. Care must be taken to avoid overlaps.

4. The Structure

An existing coordination structure is enhanced / A new coordination mechanism has been established. []

Tips:

- Ensure that the coordination structure is as simple as possible.
- Ensure that all parties have agreed upon the **structure, membership, scope** and **function** of the coordination mechanism. The agreement should be outlined in the terms of reference, which should broadly be in line with the generic terms of reference agreed upon by the IASC (see Part 1.3).  These can be revised regularly to suit the requirements of the operation.
- The institutional framework and the different coordination structures, including the cluster approach, are discussed in Part 1.3 of this handbook.
- Guidelines and tools agreed upon by the IASC and other fora should be used and implemented (which will also obviate the need to develop new tools and will ensure standardization).

5. The Coordinator

An appropriate and effective coordinator/facilitator has been identified. []

Tips:

- An organization can take responsibility for the coordination of protection activities in an operation but must have the capacity to do so. If need be, an individual should be designated to lead this process.
- The coordinating organization must be prepared to coordinate activities beyond those stated in its mandate. For instance, UNICEF will need to address issues beyond child protection and UNHCR issues beyond refugee/IDP protection.
- Avoid changing the facilitator to ensure consistency in the operation.
- The coordinator should have knowledge and understanding of protection and human rights. Knowledge of the local language is also useful. The profile and job description of a cluster coordinator is noted in Part 1.3 below. It can be used for non-cluster operations as well.

Tips for coordinator:

- Make yourself available to the partners and provide guidance when required.
- Be familiar with the mandate, expertise and experience of different partners, understand their concerns and determine how they can best be addressed.



	<ul style="list-style-type: none"> • Have a clear work plan, terms of reference and ground rules to ensure that the coordination mechanism is used effectively. • Encourage and support joint activities, such as assessments, planning and implementation. • Be inclusive and try building a team whose members support and complement each other's work. Reach out and create links with other sectors/clusters • Be credible by demonstrating commitment, professionalism, sound technical knowledge and understanding of the situation. • Acknowledge the value and contribution of all parties and ensure they can all contribute to and benefit from joint activities.
<p>6. The outcome</p>	<p>6. With coordination, humanitarian agencies are more effective. []</p> <p>Tips:</p> <ul style="list-style-type: none"> • Continually and jointly evaluate the manner in which coordination is taking place to determine how it can produce more effective results. Determine how it can be simplified, and, where necessary, change the terms of reference, manner of working and division of responsibilities among the members.

6. Facilitating Meetings

If managed well, meetings can be a useful tool to ensure that protection activities are well coordinated. If poorly managed, meetings waste time and undermine the credibility of a protection operation.

6.1 Approaches to organizing and facilitating a meeting

- **Meet for a purpose:** Meetings require a significant investment of time and effort from both the facilitator and participants and should only be convened if and when needed. Instead of convening a large meeting, you can use e-mail correspondence, phone calls or even smaller meetings with partners that have an interest in a particular matter.
- **Prepare, Prepare, Prepare:** To ensure maximum results, all participants should prepare for the meeting. Providing relevant information to participants in a timely manner, outlining what is expected of them, preparing for contingencies, such as having translations and copies of background documents available, are some ways to prepare for a meeting.
- **Keep it short and simple:** Meetings do not have to be lengthy to be useful. The facilitator should set the tone and pace of the meeting and ensure that participants remain focused on the issues at hand. Seek agreement on ground rules to ensure meetings run smoothly.
- **Facilitate rather than dictate:** A facilitator (derived from the Latin term *facere*, which means “to do” or “to make easy”) should create an environment that allows participants to work on an equal basis and take joint ownership. Encouraging participation, listening actively, focusing on common ground rather than differences, summarizing long and complex discussions, remaining neutral (see below), and taking decisions when necessary are some essential skills of a facilitator. The facilitator can often contribute the most by speaking the least.
- **Remain neutral:** A facilitator may need to remain neutral during coordination meetings, especially as the facilitating agency will need to address issues beyond the mandate and operational capacity of that specific agency. For example, if UNICEF is facilitating a meeting, it will need to ensure that other issues besides child protection are equally addressed.

- **Address differences:** Differences in opinion can be resolved by remaining neutral and addressing the issue on its merits rather than personalizing them. Some issues may require bilateral discussions or a series of meetings to reach a common understanding.
- **Address difficult group dynamics:** Difficulties may arise when some participants are overly vocal, repetitive, speak for a long time without focus, resist all suggestions and ideas, disrupt meetings through side conversations, or simply have difficulties in articulating their ideas. The facilitator can resolve many of these problems in a non-threatening manner by remaining neutral and adhering to pre-determined guidelines, such time-limits for each speaker or a particular topic. In extreme cases, the facilitator can discuss the matter with the participant before or after the meeting to address the issue.
- **Be inclusive:** Meetings provide a forum where diverse views can be presented and debated. Individuals whose opinions are different than those of the majority should not be excluded as they have a valuable contribution to make. In some cases, discussions may need to be translated. ICRC/IFRC observers should be welcomed as should coordinators of other sector/cluster working groups, given the cross-cutting nature of protection.
- **Build trust, build a team:** As the participants meet more regularly, they should be able to forge trust and create effective working mechanisms. The facilitator can be a catalyst in this process by remaining neutral and facilitating dialogue among partners with diverse viewpoints.
- **Follow-up to meetings:** A meeting is not an end in itself; rather, it provides the basis for taking action. It is essential to summarize the action points agreed upon (who is responsible for doing what and by when) and, when necessary, work with participants to achieve their objectives. This also helps make subsequent meetings more productive and focused.

6.2 Checklist for facilitating meetings

Time	Issue	Check
1. Pre-meeting	<p>Invitation to attend the meeting</p> <p>A meeting invitation is sent out in a timely manner to all relevant parties.</p> <p>Tips:</p> <ul style="list-style-type: none"> • Have a clear and relevant objective and expected outcome for the meeting. Holding a meeting must never be an end in itself. In emergencies, OCHA often has the most updated contact list for humanitarian actors. • All correspondence should be clearly and consistently marked in the “subject” line of an e-mail to ensure effective follow-up by all participants. • The meeting invitation can include the following issues: <ul style="list-style-type: none"> – Information about the purpose of the meeting; – Who should attend, why and what is expected of them; – The date, time, duration and location of the meeting (see 2 below); – A tentative agenda (see 6 below); – Any necessary documentation, such as background documents, evaluations, or minutes of last meeting (see 3 below); – A request or offer to invitees to share any further information that may be helpful and a request for confirmation of attendance. 	[]
2. Meeting arrangements	<p>Date, time and location</p> <p>The date, time and location has been arranged and communicated to invitees.</p> <p>Tips:</p> <p>The date and time of the meeting should not coincide with other meetings (OCHA may have a master calendar of meetings).</p> <ul style="list-style-type: none"> • In a field location, meetings may be preferred either as the first or last activity of the day, as staff may be in the field during the day. 	[]

- **The meeting location is accessible** to all and can **accommodate** all participants. Basic amenities (bathrooms, sufficient number of chairs) must be available and other amenities (e.g. flip-charts, an overhead projector) may need to be provided. Beverages (water, coffee, tea) may be appreciated.
- Regular meeting hours (same time and location) may be useful.
- The facilitator should be present at the venue **before** the meeting begins to prepare the room and welcome the participants as they arrive

Documents

Necessary documents have been prepared and shared with the participants.

Tips:

- For cluster meetings, the first invitation may include the **background documents** that introduce the cluster approach and decisions made by the PCWG affecting the coordination mechanism, such as division of responsibilities among agencies, the standard terms of reference for a protection-coordination team, etc.
- In subsequent invitations, the **minutes of the last meeting**, which were circulated earlier, should also be included.
- It may be necessary to provide copies of the documents at the meeting in the event the participants have not brought their own copies.
- Avoid sending bulky or numerous documents by e-mail: It might discourage participants from reading the documents before the meeting.

3. Opening of the Meeting

Basic “housekeeping”

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- Participants introduce themselves.
- Facilitator collects information about attendance at the meeting (name, organization, contact details), which will be reflected in the minutes of the meeting.
- All participants understand and agree on the purpose/procedures of the meeting.
- A colleague (perhaps the facilitator) is designated to take the minutes of the meeting.

Tip:

- Determine the language to be used. It may be necessary to make arrangements for translations for certain individuals and groups.

4. Agreement on Agenda, and minutes from previous meetings

The Agenda

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The agenda has been reviewed, changed, if necessary, and agreed upon by all parties.

Tips:

An agenda can take different forms, but common elements include:

- The **date, time and place** for the meeting (as a reminder)

Adoption of the agenda

- Adoption of the minutes from the last meeting. The minutes need not be corrected at the meeting but agreed over e-mail to save time

Update on action points from the last meeting

- **Discussion** on new activities and plans
- Any **other business**
- **Wrap-up**

To ensure that time is managed effectively, set a time period to discuss each agenda item

Adoption of minutes from previous meetings

All participants have agreed on the minutes of the previous meeting.



<p>5. Update on follow-up activities previously agreed</p>	<p>Update on follow-up actions decided at previous meeting []</p> <p>The participants provide an update on the various actions points agreed at the last meeting.</p> <p>Tips:</p> <ul style="list-style-type: none"> • It may be useful to reflect follow-up actions in the form of a matrix. Parts of this information also could be integrated into the “who is doing what and where” tool or be incorporated as part of the protection-strategy document.
<p>6. Substantive discussions</p>	<p>Discussions on substantive issues and future action-points []</p> <p>Issues of a substantive nature are discussed in order of priority at the meeting.</p> <p>Tips:</p> <ul style="list-style-type: none"> • A range of substantive issues may need to be discussed (although not all issues can or need to be discussed at all meetings). The facilitator should ensure that most of the meeting is spent on addressing such substantive issues in a structured manner and in order of priority. The discussion should lead to clear and agreed upon action points. • Specific thematic issues can be discussed in bilateral or smaller meetings. In general, however, the protection working group should be the primary forum and issues should not be compartmentalized or confined to sub-group discussions on a regular basis. <p>Any other business</p> <p>Participants are able to raise and discuss other issues</p>
<p>7. Closing of the meeting</p>	<p>Wrap-up []</p> <p>A summary of decisions and follow-up action points is provided verbally; decision for next meeting is taken.</p>
<p>8. Post-meeting</p>	<p>Drafting the minutes</p> <p>The minutes have been drafted and circulated in a timely manner.</p> <p>Tips:</p> <ul style="list-style-type: none"> • The minutes should be short but include all main issues and actions points. They do not need to be a verbatim documentation of the discussion. Care must be taken with confidential information. • Follow-up action (who is expected to do what by when) should be clearly stated at the beginning or the end of the minutes for ease of reference. • The minutes should be circulated to all relevant stakeholders within 1–2 days of the meeting. This may include, in addition to the participants, the Humanitarian Coordinator and other important protection actors. • Comments and corrections should be invited over e-mail within a reasonable deadline and a final version circulated in advance of the next meeting.
	<p>Follow-up actions []</p> <p>Follow-up actions have been undertaken in time for the next meeting.</p> <p>Tips:</p> <p>The facilitator may need to follow-up on a number of actions points or assist other actors in doing so.</p>

Chapter 3

Working with Military Actors

1. Introduction

Humanitarian action must be guided by the core principles of humanity, impartiality and neutrality at all times. This requires a clear distinction and division of labour between humanitarian action on one hand, and military or military-related activity on the other. Legitimate armed forces, which respect international humanitarian and human rights law, play a vital role in ensuring a safe and secure environment for all civilians, including the internally displaced. Humanitarian actors often have to interact and liaise with military actors, especially when working in situations of armed conflict and complex emergencies.

More detailed guidance is provided in 'Civil military Relationship in Complex Emergencies' (IASC, 2004), available from www.reliefweb.int

The nature and scope of such interaction will depend on the circumstances. It can range from mere co-existence with civilian and military actors trying to avoid disrupting each other's activities, to closer coordination to ensure the effectiveness of combined humanitarian efforts. While some form of interaction will usually be necessary, coordination with a party to a conflict must proceed with caution and should in principle only take place in exceptional circumstances and as a last resort. A failure to maintain an actual or perceived distinction between humanitarian and military activities can undermine the independence, neutrality and impartiality of humanitarian action and place persons of concern and humanitarian staff at risk.

Provided that the key principles of humanitarian action are preserved, several forms of interaction with military actors can be envisaged:

- Advocacy with military actors to prevent or put a stop to violations and ensure respect for relevant bodies of law, in particular humanitarian and human rights law, as applicable.
- Training and awareness-raising among military actors on the principles of humanitarian, human rights and refugee law and the mandates and activities of humanitarian actors.
- Sharing of necessary information, such as relating to the security situation.
- Provision of logistical, technical or military support to humanitarian operations by military actors, for instance to facilitate safe and rapid access to individuals and communities in need of assistance.
- Military support for the physical security of IDPs and affected populations, in displacement or upon return.

2. Practical considerations for civil-military coordination

Regardless of what level of co-operation is foreseen with the military, the principles of humanity, neutrality and impartiality should never be jeopardized or subordinated to military or political objectives. There must be a clear distinction between civilians and combatants/fighters at all times; humanitarian operations must act, and be perceived to act, independent from the military. What follows are some practical considerations for humanitarian workers engaged in civil-military coordination:

2.1 Gain an understanding of the military actors

Learn about the type, objectives and structure of the different military actors operating in the area and understand how they are perceived by both the displaced and host community.

- **Type:** Armed forces can be affiliated to a country, a group of countries or international bodies. Non-State actors, or armed groups, have no such affiliation, although they can be supported by a national Government.
- **Objective:** Armed forces and groups may be parties to a conflict or armed forces can be part of a peace-keeping operation, which in some cases are mandated to support humanitarian operations.
- **Structure:** Humanitarian and military actors have different institutional structures, culture and even language. Armed forces usually have clear hierarchical structures and a strict chain of command, while armed groups may be more decentralized. Understanding the structure will help to identify the best interlocutor, the appropriate channel of communication and to facilitate interaction, as required.

2.2 Be aware of liaison arrangements and levels of interaction

Liaison arrangements and clear lines of communication should be established at the earliest possible stage and at all relevant levels between the military forces and the humanitarian community, to guarantee timely and regular exchange of relevant information.

- Before engaging with armed groups, determine your agency's general and specific position in relation to the armed actors in your area of operation. Be well aware from the start on the nature and scope of such arrangements, including at what level takes place, whether it will be formal or *ad hoc*, whether it will be transparent or confidential, etc.
- Interaction with armed forces can take place at various levels:
 - At the **senior level**, between senior military officials and the Humanitarian Coordinator/heads of agencies. All negotiations that affect the relationship and interaction between the two parties, including information exchanges, procedures at checkpoints and training, should be conducted at this level.
 - At the **working level** (CIMIC or civil affairs office), based on the agreements reached by the senior staff. These include day-to-day interaction between humanitarian agencies and the military, such as reporting vehicle movements, security clearances, airlifts, etc. Humanitarian staff with the appropriate profile for civil-military co-ordination should be available for liaison tasks.
 - Forces representing the United Nations, including integrated missions, AU or NATO may appoint a civilian-military liaison officer (CIMIC officer) and establish a CIMIC centre where the military and humanitarian community can work together on common issues.
 - At the **field level**, the United Nations will usually be represented by the UN focal point/area security coordinator. NGOs may also decide to appoint a representative to relay communications.
 - At the **security level**, field security officers frequently maintain their own contacts with the military for staff safety purposes.
 - **On the road**, interaction with armed forces can occur while passing checkpoints and other military installations. At this level, all staff need to follow the agreed procedures. Soldiers at this level usually have no authority to discuss substantial issues, and any disagreement on procedure or other issues should be discussed with higher-level offices.
- If in doubt, it is best to **seek clarification** from the agency, the protection-cluster/working-group coordinator or the Humanitarian Coordinator.



2.3 Information Sharing	<ul style="list-style-type: none"> • As a general principle, information gathered by humanitarian actors should not be shared with military actors, except if and to the extent necessary to protect the lives and well-being of persons of concern. Even in such cases care must be taken to safeguard privacy and confidentiality to avoid placing individuals or communities at risk or jeopardizing the principles of neutrality and impartiality. • Certain level of information sharing may however be necessary, for instance relating to security information; location, movement or activities of humanitarian staff; ongoing population movement; and relief activities of the military. • Decide and give guidance to staff on what information can or cannot be shared. • Establish a clear, simple and effective information sharing structure.
2.4 Use of military escorts for humanitarian convoys	<ul style="list-style-type: none"> • The use of military or armed escorts for humanitarian convoys or operations is an extreme precautionary measure that should be taken only in exceptional circumstances and on a case-by-case basis. • The decision to request or accept the use of military or armed escorts must be made by humanitarian organizations, not political or military authorities, based solely on humanitarian criteria. • Detailed guidance in this regard is provided in a discussion paper and non-binding guidelines on the <i>Use of Military or Armed Escorts for Humanitarian Convoys (UN, 2002)</i>.
2.5 Joint civil-military relief operations	<ul style="list-style-type: none"> • Operations undertaken jointly by humanitarian agencies and military forces can have a negative impact on the actual or perceived impartiality and neutrality of humanitarian action. • Any joint civil-military cooperation should be determined by a thorough assessment of the actual needs on the ground and a review of civilian humanitarian capacities to respond to them in a timely manner. • To the extent that joint operations with the military cannot be avoided, they may be employed only as a means of last resort.
2.6 Use of Military Assets for Humanitarian Operations	<ul style="list-style-type: none"> • In general, the use of military assets in support of humanitarian operations in complex emergencies should only take place on exceptional basis and <i>as a last resort</i>. • Where civilian/humanitarian capacities are not adequate or cannot be obtained in a timely manner to meet urgent humanitarian needs, military and civil defence assets, such as aircraft or vehicles, can however be deployed. A decision to that effect must be taken at the highest level within an organisation and in consultation with the HC. • In addition to the principle of 'last resort', key criteria include: <ul style="list-style-type: none"> – <i>unique capability</i> – no appropriate alternative civilian resources exist; – <i>timeliness</i> – the urgency of the task at hand demands immediate action; – <i>clear humanitarian direction</i> – civilian control over the use of military assets; – <i>time-limited</i> – the use of military assets to support humanitarian activities is clearly limited in time and scale. • Further guidance in this regard is available in the <i>Guidelines on the Use Of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies (UN, 2003)</i>.
2.7 Military Operations for Relief Purposes	<ul style="list-style-type: none"> • Relief operations by military actors, even when purely 'humanitarian' in nature, may have a detrimental effect on humanitarian efforts by blurring the distinction between humanitarian and military action. This may jeopardize the neutrality of humanitarian action, result in limited access to areas under the control of other parties to the conflict, and place persons of concern as well as humanitarian staff at risk.



	<ul style="list-style-type: none"> • Military forces should be strongly discouraged from playing the role of the humanitarian aid providers. • Diplomatic efforts may prove helpful in this regard.
<p>2.8 Conduct of Humanitarian Staff</p>	<ul style="list-style-type: none"> • Humanitarian staff should interact with military personnel in a tactful manner on every occasion. • Humanitarian staff should be able to convey in a clear manner the independent and civilian nature of humanitarian assistance. • A clear distinction must be retained between the identities, functions and roles of humanitarian personnel and those of military forces, i.e. travel in clearly marked vehicles, clearly marked offices and relief supplies, etc. • Weapons should not be allowed on the premises or transportation facilities of humanitarian organizations. • Humanitarian personnel should not travel in military vehicles, aircraft, etc., except as a last resort or for security reasons. • Humanitarian personnel should at no time collect military intelligence or military strategic information. • Humanitarian workers should not wear any military-like clothing.
<p>2.9 Training and awareness-raising</p>	<ul style="list-style-type: none"> • States have an obligation to ensure respect for relevant bodies of law, in particular humanitarian and human rights law, including by raising awareness of and providing training on humanitarian law and principles to their armed forces and any other armed groups under their control. • Humanitarian actors can play an important role in supporting, facilitating or even providing such training. Such efforts should be undertaken in consultation with relevant actors, such as the ICRC.



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Part III

BUILDING A STRATEGIC PROTECTION RESPONSE

*Photo Sujeewa de Silva/Norwegian Refugee Council (NRC)
Children's team building activities in an IDP camp in Sri Lanka.*

Overview

Mass population displacement often occurs during a complex emergency or major natural disaster. While the consequent protection issues vary with each situation and over time, they are always numerous, substantial and interlinked. Each situation requires a unique protection response. Often, there are not enough protection agencies on the ground, progress is difficult and setbacks are frequent. Working together strategically, in a collaborative and creative way, and making best use of available resources and expertise, can help to mitigate some of the challenges facing protection actors, and can maximize the impact of a protection response.

Part III contains three chapters on the different activities required to build a protection response. Chapter 1 provides guidance on the activities required to undertake a situational analysis; Chapter 2 focuses on the actual development of the strategy; and Chapter 3 provides guidance for monitoring and evaluating the activities implemented on the basis of the strategy.

Thinking strategically means...

- To clarify objectives.
- To avoid *ad hoc* approaches, and to always place activities in the “big picture”.
- To be pro-active as opposed to simply reacting to events and information.
- To target existing resources and expertise to meet identified needs.
- To define priorities and shape the overall response according to the different existing capacities.
- To recognize limitations (in terms of staff, resources, context) and, in response, to seize all opportunities, such as dialogue with interlocutors we can count on.
- To remain flexible and ready to adjust a strategy to the evolving situation and to change approaches that are not producing results.

Strategic thinking must guide the whole operation cycle, from the initial assessment to planning, implementation, monitoring and evaluation.

The various steps involved in developing a more strategic inter agency protection response include:

1. **Conducting a Situation Analysis:** Collecting and analyzing relevant baseline data to identify and prioritize protection gaps;
2. **Setting down the strategy,** including agreeing on what kind of activities are necessary to address the identified needs and allocating responsibility for implementation of activities; recording the results in a strategy document;
3. **Implementing the Strategy:** Implementing the activities outlined in the strategy, in a coordinated manner; and
4. **Monitoring and Evaluating its Impact:** Measuring the impact of the strategy, whether activities undertaken were appropriate and useful in the particular context. on the persons of concern.

All humanitarian and development actors need to keep in mind that their activities aim to ensure that IDPs and other affected communities are able to **exercise their rights** in accordance with international human rights law and, where applicable, international humanitarian law and international refugee law. Protection is therefore relevant to all sectors of an intervention; it is the **core of the broader humanitarian response**.

Chapter 1

Situational analysis

1. Introduction

Situational analysis refers to the collective assessment and analysis of a given operational context: **Assessment** is a process through which all relevant baseline information is collected, using a variety of methods and sources. **Analysis** examines the data collected during the assessment to identify the protection risks and concerns to be addressed, their impact and urgency.

The aim of a situational analysis is to ensure that a humanitarian response is based on accurate and up-to-date information, and that the urgency or gravity of issues is taken into account. Undertaking a situational analysis is therefore the first step and precondition to a sound protection strategy.


Key considerations before initiating a situational analysis include:


Who will do it?	<ul style="list-style-type: none"> • A team of representatives of key protection partners and non-protection actors. Ensuring a joint exercise is critical to avoid duplication of efforts and repeated assessments of the same population by different humanitarian actors, as well as for promoting a shared understanding of the protection gaps. • In close coordination with: <ul style="list-style-type: none"> – The Humanitarian Coordinator, who oversees the whole humanitarian response; – Relevant authorities to the extent possible, or at least in close consultation.¹
When to do it?	<ul style="list-style-type: none"> • In a sudden crisis or in the face of an emerging situation, for the humanitarian community to understand quickly the situation to plan for an effective protection strategy. • In post-emergency operations, to get a more thorough understanding of thematic or geographic issues and strengthen or reorient efforts towards durable solutions. • On an ongoing basis, to gain continuous information on the direction of the protection strategy and determine the need for changes.
Scope	<ul style="list-style-type: none"> • Determine which geographical areas will be covered by the assessment. • The assessment should focus on communities in the broad sense, to understand the situations of groups of different ages, gender or backgrounds, and to identify the various concerns and perceptions of displaced persons, other affected populations and the public at large.
Resources available	<ul style="list-style-type: none"> • Work out an estimated budget to ensure sufficient resources, including staff and transportation, until the end of the assessment.
How to do it?	<ul style="list-style-type: none"> • A situational analysis exercise includes four sets of activities, each with a specific methodology: <ol style="list-style-type: none"> 1) a documentary review of existing information 2) a participatory assessment with IDPs and affected communities 3) consultations with government and other stakeholders 4) systematizing and analyzing information • The inter-agency tool for assessment and analysis, <i>Protection for Conflict-induced IDPs: Assessment for Action</i>,² provides detailed guidance to go through these steps. In addition, the Humanitarian Information Centre (HIC), if there is one in the operation, can help process the information in a user-friendly manner.


¹ For more information on working with non-state actors, see Part I, Chapter 1, *The fundamentals of protection work*. Consult the Humanitarian Coordinator concerning their involvement.

² *Protection for Conflict-induced IDPs: Assessment for Action*, Inter Agency Standing Committee Protection Cluster Working Group, Early Recovery Cluster Working Group, pilot version for field testing, November 2007.

2. Steps for Assessment and Analysis

There are various methods for assessing and analyzing the protection situation of a specific population or group. These include Rapid Assessments, Standard Assessments, or Profiling. The choice will often be guided by circumstantial factors, such as the urgency of the situation and the level of access to affected areas (see Part IV.8). 

All methods, however, include a documentary review, participatory assessments and consultations with key stakeholders. Equally, all protection assessments and subsequent analyses need to be based on human rights standards and should capture the protection concerns of persons of different ages, sex and backgrounds (see Part I, Chapter 1). 

A number of standard templates have been developed to guide the information-gathering and analysis. The Inter-agency Standing Committee is developing a template for a joint rapid assessment tool that can be customized to suit most operations. The Global Protection Cluster has developed a protection-assessment framework, **Protection for Conflict-induced IDPs: Assessment for Action**.³ The tool provides a general structure and list of essential questions to be answered during all phases of a situation (see Part IV.1). 

2.1 Documentary review

(Timeline: This should not take more than a week and can be done in parallel to the participatory assessment and other consultations below)

A documentary review should be used to compile available documentary information, such as annual reports, surveys, the resulting information of profiling and monitoring reports, and previous needs assessments and evaluations. The documentary review is not meant to be a statistics-gathering process, nor is it a substitute for agency-specific, protection-related or sectoral gathering of standards and indicators.

Based on that background information, a draft analysis should be prepared using the *Protection Analysis Framework for Action*³ or, if time is limited, the broad themes in its chapter headings, as a guide. This draft can be validated and completed later through the Participatory Assessment and separate interviews with national authorities and other actors.

2.2 Field-based Participatory Assessment

(Timeline: can be carried out in one week or less in various locations simultaneously)


IDPs and affected populations have a right to participate in making decisions that affect them. They generally can provide the most accurate data on which to base a protection strategy, and their participation is essential for ensuring that programmes and interventions effectively address their needs and protect their rights.

The process of including affected communities in identifying who they are, what problems they are facing, what capacities they have, and what they can do to create a more protective environment is known as “**Participatory Assessment**”⁴. The main phases, which can be shortened to suit operational requirements are:

- **Identifying leadership** in the community (both *official* representatives or authorities and *de-facto* leaders or influential members of the community), and help identify power relations.
- **Mapping diversity** to identify which groups of a specific age, sex or background with common protection concerns.
- **Selecting themes** of particular interest to discuss with the community.

³ *Ibid.* footnote 2.

⁴ The methodology for Participatory Assessment is attached to the *Protection for Conflict-induced IDPs: Assessment for Action* (see footnote 2).

- **Facilitating discussions** on these themes to understand specific protection concerns and to identify possible solutions (see Part IV.10). 

Discussions with communities should not stop after the assessment. Rather, the dialogue and trust established through this process should be kept alive throughout the operation. These discussions will determine to a great extent whether or not the protection strategy should be adjusted to better serve the interests of the community.

2.2.1 Ethical considerations in undertaking participatory assessment:

The rights, dignity, and well being of IDPs and hosting communities must be safeguarded during the participatory assessment. One challenge in conducting a participatory assessment is identifying ways of establishing regular contact with IDPs and hosting communities, particularly where IDPs have integrated into the rest of the population, such as is often the case in urban settings.

Singling out IDPs could expose them to heightened security risks. In some cases it could lead to tensions with the rest of the community, particularly if IDPs are perceived as receiving preferential treatment. It may be advisable to work through existing structures, and faith, and/or community-based groups. Another option could be to first hold joint group discussions including both displaced and non-displaced persons, and to speak to IDPs separately during a second stage.


When undertaking a participatory assessment, participants from the community should:

- Be warned of any potential risks or inconveniences associated with participation in the assessment, such as time away from family or job, or reminders of traumatic experiences;
- Be informed of the objectives, purpose and process of the assessment and be informed of its limitations, so that expectations are not raised (such as a specific response, or receiving any direct financial or other personal gain from participating);
- Participants should be informed, however, of the potential benefits possibly arising from the assessment, including improving certain conditions for other IDPs or affected communities;
- Be reassured that they do not have to participate in the assessment or to give personal information that embarrasses them, makes them feel uncomfortable or revives traumatic experiences in public;
- Not be asked questions, particularly related to protection, in front of armed personnel, security personnel and officials, or other persons when this presents a risk; equally, they will not be photographed or recorded without their informed consent;
- Know that the confidentiality of information sources will be respected and names and identities of participants will not be disclosed. This may be especially difficult when local authorities participate in the process. Internally displaced persons must not be exposed to protection risks because of their participation;
- Be permitted to express themselves freely without interruption and without having the information they provide “challenged” negatively (e.g., questioning lack of initiative or credibility);
- Be given the names of contact staff or partners with whom they can follow up in case they have personal questions or concerns; and
- Representatives of the different groups should be identified to ensure the continued involvement of the community. At the very least, they should be kept informed of how their information is being used and of any follow up actions taken.

2.3 Consultations with relevant authorities, NGOs and other actors

(Timeline: several days)

Efforts to enhance the protection of IDP communities and to strengthen local and national protection capacities depend upon the **participation and engagement of relevant local and national authorities, as well as NGOs and other actors**. **Protecting IDPs is the responsibility of the national authorities**. Their participation from the earliest stages will **help build ownership and ensure the necessary collaboration as the strategy is defined and implemented**.

Depending on the consultations with the Humanitarian Coordinator, **non-state actors** who are in *de facto* control of territory where IDPs and other affected populations reside might also be included in the discussions to enable a better understanding of their approach to the humanitarian crisis and their perception of the humanitarian community and affected populations. While they do not represent a State, international law places certain obligations on their conduct towards civilians. During such consultations, humanitarian agencies must maintain their neutrality and impartiality (see Part I.1). 

2.4 Systematizing and analyzing information

(Timeline: concurrent with the data collection and one to two days upon completion of the assessment)

The analytical phase requires a reflection on the information to understand which are the main protection gaps – or human rights concerns – in a given situation as well as their causes and the capacity of local communities, authorities and other actors to bridge those gaps. The analysis should be represented in a final document, which can be drafted with the guidance of the *Protection for Conflict induced IDP's: Assessment for Action*⁵.

The findings should be **validated by the various stakeholders**. A meeting or workshop with the community might be necessary to prioritize the findings, modify them if necessary, based on other facts, and receive a final endorsement. Equally, the final analysis should be discussed, to the extent possible, with national authorities to reach a shared understanding of the protection gaps. This should contribute to strengthening partnership between the national authorities and humanitarian actors in the implementation of the protection strategy.

⁵ *Ibid.* footnote 2

Chapter 2


Developing the strategy

1. What is a Protection Strategy?

A strategy provides the over-arching vision for a collective and, therefore more comprehensive, protection response. A strategy provides a collective analysis of the protection concerns and a clear understanding of the operating environment; defines common objectives; identifies priorities; and puts forward a coherent and comprehensive plan of action, with clearly allocated roles and responsibilities, for achieving these objectives.

2. Why is a Protection Strategy Important?

A protection strategy, especially one that is developed with a broad range of partners, will help to strengthen their protection response, particularly that of national authorities and affected communities in a number of ways:


- **Effective response:** Working together in a planned and coordinated way, will result in a more coherent and, therefore, more effective and more comprehensive response to protection concerns, while helping to ensure that there are no gaps or duplications of efforts;
- **Innovative responses:** The process of developing the strategy, bringing all relevant actors together to identify shared objectives and mutual strengths, can also help find creative ways of overcoming obstacles;
- **Access to resources:** Raising funds for protection activities can be more effective when approaching donors together and presenting shared objectives. The strategy often forms part of the inter-agency planning or fund-raising process, such as the Common Humanitarian Action Plan (CHAP) or Coordinated Appeal Process (CAP);
- **Measuring impact:** Measuring the impact of protection interventions is difficult, but setting benchmarks or indicators can help to evaluate how the protection response has improved the situation, and if the interventions are appropriate (*see Part III.3*);  and
- **Continuity:** A strategy can help to ensure continuity in an operation, especially in situations where there is a high turnover of staff.

3. Who should develop the protection strategy?

In order to ensure appropriate identification of needs, and the most effective and comprehensive response, all relevant protection actors in the country should be involved throughout the process of developing a protection strategy. It should be developed by the protection working group or similar protection coordination mechanism, in consultation with the Humanitarian Coordinator and the IASC Country Team.¹

The strategy-development exercise should involve and reflect the views of those whom it seeks to protect, such as displaced communities, non-displaced populations under threat, and among them older persons, women, men, children, and youth of diverse backgrounds. Throughout this process, it is also important to consult with national or local authorities, as appropriate, and other relevant stakeholders such as donors, or representatives of peace-keeping/peace-support/peace-building missions.

¹ The Humanitarian Coordinator is responsible for ensuring the “development of a comprehensive strategic plan for responding to the ... protection needs of IDPs” (Revised Terms of Reference of Humanitarian Coordinators, 2003, IASC).

Coordinating the development of a protection strategy with a large number of actors with different working styles and mandates can sometimes be difficult. Consultations must, therefore, encompass the different perspectives in order to secure a broad consensus. The resulting strategy document should be clear and concise to ensure a shared understanding of the strategy by all those involved in its implementation (see Part II). 

The absence of a protection strategy should not prevent humanitarian agencies from undertaking protection activities in the field, especially during an emergency phase and supporting the capacity of national authorities to protect IDPs and affected communities. However, it is important to ensure that a strategy is developed as soon as possible in any given context. The strategy should be reviewed regularly to ensure that it remains relevant and effective.

4. What should the strategy include?


The strategy will be determined by the specific context, including the protection actors present. In a conflict situation, the strategy may be more focused on advocacy and mitigation of the impact of conflict on the affected populations. In a return or post-conflict setting, the strategy may be more specific to ensuring conditions for durable solutions. During natural disasters, the strategy may involve closer dialogue with the authorities on reconstruction and ensuring non-discrimination in access to services or assistance.





A protection strategy should respond to the following questions:

- Who needs protection and in relation to which right?
- What will the various actors do and how?
- How will they know if the strategy has been successful?

4.1 The Strategy Document

Strategies may differ in format, but there are a number of *standard* components to ensure that the strategy document is clear, action-oriented and practical. These include:

- I **Background:** An outline of the relevant facts that have led to the existing humanitarian crisis and have triggered the development of a protection strategy.
- II **Situation analysis:** This would include a summary of the findings of the document review, consultation with key stakeholders and the participatory assessment, and should include priorities on who should be protected and how. It should also include a list of stakeholders, both agencies and communities, involved in implementing a protection strategy and state their capacities and roles.
- III **Possible scenarios:** As with the CHAP, it is useful to elaborate on the best, worst and most likely scenarios in a given context. Humanitarian crises, particularly armed conflicts, are volatile. The protection response, like the broader humanitarian response, needs to remain flexible to respond to political developments as they arise. Protection actors should be well prepared for the different scenarios and foresee possible changes in the protection strategy as may be required by the circumstances.
- IV **Basic principles:** It might be necessary to emphasize the principles on which the protection strategy is based, (such as independence, impartiality, and neutrality; community participation, etc), as well as the general thrust of the humanitarian operation/response. The strategy paper should also affirm that the international community has been called upon to support the government in improving the protection of the displaced and other affected populations (see Part I.1). 

- V **Legal framework:** There should be a clear reference to the law applicable in the specific country context, including international human rights law, international humanitarian law, as well as relevant national law.
- VI **Objectives:** Based on the priorities identified and the legal framework applicable in the specific context, the strategy should outline key objectives that the protection actors are aiming at in the short, medium and long term.
- VII **Action plan:** The strategy should outline activities that will be undertaken, either collectively or by individual organizations, in order to address the identified needs and achieve the stated objectives. The list of activities must be based on what resources and capacities are currently available, humanitarian access and security. The strategy should be realistic, practical and appropriate to the country context. The Action Plan should include:
- **Activities:** listed in order of priority (*see Part IV of this Handbook*); 
 - **Geographic area:** where activities will be undertaken;
 - **Populations:** who will these activities be implemented for/with; and
 - **Responsibility for implementation:** assigning responsibilities for activities should take into account who is best placed to do what – who has the most expertise, experience and capacity to undertake particular activities. For the UN agencies, this should be in line with commitments made at the global level to provide particular technical expertise (*see Part I.3*). 
- VIII **Coordination:** Mechanisms for coordinating the implementation of the strategy need to be clearly defined. It is particularly important to designate a lead organization in each sector, to outline the structure and membership of the sector, (including national, regional and any local working groups), as well as to define how the sector reports to the Humanitarian Coordinator (*see Part I.3*). 
- IX **Key indicators:** Having set objectives for the strategy, it is necessary to measure to what extent they have been attained as well as what impact activities have had. Setting indicators to measure the impact of protection activities is generally difficult, but there are certain key outcomes that can be used to assess whether activities have improved protection (*see Part III.3*). 
- X **Constraints/Assumptions:** It is important to understand what may affect implementation of the strategy. Common constraints include insecurity, lack of access, and lack of resources.
- XI **Costs:** It may be necessary to include the total cost of implementing the strategy, particularly when additional funds need to be raised.

Format: The strategy can be written as a narrative text and/or tables with the priorities, activities, responsible organizations and indicators clearly indicated. The key is to ensure that the strategy is concise and easy to understand.²

Scope: A strategy usually establishes a countrywide protection response. However, it might be necessary to develop a response for a specific region/district in a country. If so, the region/district-specific response should be seen as part of the countrywide response and should share the broader objectives.

In operations where two or more countries have related protection issues, it might be helpful to develop a **regional protection strategy**. These strategies may address medium- and longer-term goals. A regional strategy does not preclude a country-specific response.

² No specific template is provided in this Handbook as it could limit the creativity of protection teams. However examples of various inter-agency strategies, such as those for Lebanon, Uganda, Somalia, and the Sudan, are included in the CD-ROM version of this Handbook.

The Timeline

Developing a protection strategy can be swift. It might take from a week to a month, depending on the operational context and urgency of needs. To avoid a protracted and cumbersome process, protection partners should set a clear deadline for each step and stick to it.

Once the situation analysis is completed, the development of the strategy paper can progress as follows:

1. Initial consultations agreement on process, lead, drafters, time frame for finalization
2. Collective brainstorming to identify the elements of the strategy
3. Drafting to be done by a small team or by the lead protection agency or organization
4. Review of first draft to be done by all relevant partners
5. Finalization of draft incorporating comments/suggestions from all partners
6. Endorsement by HC and IASC CT

Once the strategy is endorsed it can be shared, as appropriate, with state authorities, donors and other relevant stakeholders who did not take part in its development. Reviews should be conducted at regular intervals, perhaps in line with mid year reviews of the CAP, or more frequently, as necessary.

Chapter 3

Monitoring and Evaluating the Strategy

1. Introduction

Monitoring is the process by which a humanitarian operation is continuously reviewed to determine whether the implemented activities have the desired impact and are being undertaken within the agreed timeframes and costs. Monitoring is usually conducted during an operation.

An **evaluation** is usually conducted upon completion of an operation or of a specific phase of an operation. It examines all aspects, including the design, dynamics, implementation and results of a specific project or an overall programme. The findings of an evaluation will usually help to determine how to adjust or improve the object of the evaluation.

Monitoring and evaluation are both **management tools** that ensure that a protection operation is running efficiently and that stakeholders are accountable for the activities they carry out. Equally importantly, they assist in correcting aspects of the programme so that it can better meet its objectives. Monitoring is a **continuous process** that provides early indications of progress, or lack thereof, in the implementation so that an operation can be corrected immediately. Evaluation, on the other hand, occurs less frequently but might be more comprehensive.

A variety of **indicators** are used to monitor and evaluate a protection strategy. A summary of some of these indicators is provided in Annex 2. These indicators should also help to determine whether a plan of action/protection strategy is working.

2. Monitoring

Monitoring provides the first opportunity to measure the results of a protection strategy. It is a particularly important step in operations that require frequent revisions of a plan of action to respond to a rapidly changing environment, as in an emergency.

2.1 Who monitors?

Traditionally, the agency that funds or implements an activity is responsible, from the perspective of financial accountability, to monitor the activity itself. While this is important, it often results in fragmented data collection.

Monitoring should thus be undertaken collectively by IDPs and other affected communities, the authorities involved and humanitarian agencies. The allocation of responsibility for monitoring, what should be monitored and how it should be done should be clearly defined and included in the final protection strategy document.

2.2 How do we monitor?

Monitoring **activities** can take different forms, including:

- Scheduled or random visits to local communities;
- Discussions with focus groups that took part in participatory assessment exercises;
- Regular discussions with local authorities;


¹ This Chapter refers to “monitoring” as a generic programming tool and not as the activity known as “protection monitoring”, which is dealt with under Part IV of the Handbook, Guidance Note 1, *Protection monitoring*.

² Exceptions to this are real-time evaluations conducted while operations are still ongoing.

- Periodic analysis of baseline data gathered in the above visits and discussions, and from monitoring reports by humanitarian agencies; and
- Analysis of financial reports and levels of implementation against planned activities.

Monitoring should not be conducted or perceived as an inquisitorial process, but rather as **an ongoing communication among various stakeholders to measure and improve the impact of operations.**

How a protection strategy is monitored depends on what needs to be monitored. Monitoring can be divided into two categories:

- **Situation monitoring:** Measures change in a condition or a set of conditions in a given operation. Baseline data provide the initial information against which changes can be measured. Baseline and subsequent data can be drawn from participatory assessments, discussions with stakeholders and even a desk review. The data will be most useful if they are disaggregated by sex, age and socio economic factors, such as whether the persons live in urban or rural settlements and their professions (see Part IV.1) 
- **Performance monitoring:** Measures progress in achieving specific results in relation to an implementation plan. It includes:
 - *Input monitoring*, which determines whether human, financial and material resources are mobilized and deployed as planned;
 - *Output monitoring*, which establishes whether products or services are being delivered or planned; and
 - *Process monitoring*, which reviews the processes by which an operation is managed.
- **Impact monitoring:** Reviews whether a programme is having the expected impact and, if not, what changes should be made to improve it. It also verifies whether any aspect of the strategy has produced any adverse effects on members of the community or any other actor.

3. Evaluation

3.1 Who undertakes evaluations?

Depending on what is being reviewed, an evaluation can be led or undertaken by a single agency (which is not advisable), by a specific cluster or working group, or jointly among various clusters/sectors. It can be undertaken by the individuals working in an operation or by persons who are not directly associated with the operation, as in external or independent evaluations.

3.2 How do we evaluate?

Given that a range of stakeholders are usually involved in responding to a humanitarian crisis, it is crucial that all parties agree to the criteria used to evaluate the operation. Such criteria are determined by the evaluation's objective and scope. They include:

- **Inclusiveness and representation:** The extent to which the concerns and views of women, men, boys and girls of all ages among IDPs and other affected communities are included in the design of the programmes and activities.
- **Relevance:** The extent to which the protection strategy for IDPs and other affected communities is consistent with the priorities and policies of the communities themselves.
- **Effectiveness:** The extent to which the protection strategy document achieves its objectives.
- **Efficiency:** It is useful to consider whether the planned actions were implemented in a timely and cost-efficient manner.
- **Impact:** Direct or indirect positive and negative long-term effects on IDPs and other affected communities as a result of an activity, intended or unintended.

- **Sustainability:** The extent to which the objectives of a programme activity will continue after the project is over, and the extent to which the government, IDPs and other affected communities benefiting from a project are willing to assume responsibility for achieving the programme's objectives.

Evaluations can be divided into the following categories:

- **Participatory or community-based evaluations:** These assist in understanding how IDPs and other affected communities perceive and assess the humanitarian operation. To be effective, such evaluations should be carried out over an extended period of time by a person or team with social research skills.
- **Real-time evaluations:** These are conducted in the acute phase of an emergency, some four to six weeks after the onset of a crisis. Real time evaluations often focus on overall operational performance issues and provide findings and recommendations that can be put to immediate use by operations managers and field staff.
- **Self-evaluations:** These are undertaken by the teams in a country operation to assess the impact of their work and to plan future activities. All stakeholders, including IDPs and others of concern, should be involved.
- **Lessons-learned evaluations:** These are undertaken upon the completion of a major humanitarian operation. Such workshops provide a record of accomplishments and problems encountered which can be used to plan and implement similar programmes in other countries or regions.
- **End-of-project evaluations:** These are undertaken at the end of a project or end of a fiscal year. They provide a comprehensive review of achievements and impact, and ensure better planning of programmes for the following year.

Annex 1:

Some Dos and Don'ts Concerning Assessment

(Based on a UNICEF paper, “Some guiding principles and principles of ethics”)

DO

- Ask the community, particularly women and youth groups, to identify potential areas or issues needing immediate attention.
- Explain the objectives and purpose of the assessment, what it can achieve and what it cannot, to the community, community leaders or professionals to ensure their cooperation.
- Be aware of the range of interviewees who can provide a representative sample of perspectives. Try to obtain responses from different sources whenever possible.
- When seeking the participation of a child, explain the nature and objectives of the assessment to the child's parents or adult guardian and secure verbal permission to speak with the child.
- Explain the project to the child in a way he/she can understand.
- Obtain consent from all adult participants in any activity, and inform them that they can refuse to take part in the assessment without negative consequences.
- When interviewing, remain aware of the risks individuals may face by talking to outsiders.
- Be certain that interviews about sensitive topics are conducted individually and confidentially.
- Be aware of the background of interpreters and others who accompany the assessment team.
- Ensure that women interviewers are available to interview other women.
- Protect the safety and security of respondents and assessment-team members.
- Remain ready to protect any individual if the team receives information of incidents likely to cause significant harm.
- Try to talk to groups that might be marginalized, particularly women, children, the elderly, persons with disabilities, persons belonging to minority groups, persons belonging to different religious groups, unless you believe that this would expose them or you to increased risk.
- Respect the dignity and self-worth of individuals, particularly women and children, at all times.

DO NOT

- Make promises if you are not sure you can keep them.
- Probe for information when it appears that a person would rather not give an answer.
- Ask intrusive questions; be aware of what is considered intrusive in the cultural context.
- Take pictures or videos of individuals without their informed consent.
- Record names and reveal identities of interviewees.
- Talk to other participants about a specific interview. To do so shows that confidentiality is not being respected.
- Ask questions, particularly those related to protection, in front of armed personnel, security personnel and officials.

Annex 2

Indicators

Some agencies make a distinction between impact indicators and performance indicators:

1. **Impact indicators** are signs of change in conditions or institutional practice that affect the population of concern and its welfare. They are set at the **objective** level. For instance:
 - *Seventy percent primary enrolment and 80% attendance ratio of both girls and boys.*
 - *Number of arbitrary arrests of refugees and asylum seekers reduced by at least 70%.*
 - *National legislation foresees oversight mechanisms towards non-discriminatory access to public services for all citizens, including internally displaced persons.*
 - *All internally displaced persons in the village have permanent housing.*
2. **Performance indicators** are defined as targets that measure performance towards the achievement of planned results. They are set at the **activity** level. These are activities that can be quantified and/or graded in terms of quality and timeliness. For instance:
 - *Ten-minute radio programmes promoting girls' attendance are broadcast weekly, April to September, reaching 70% of the population.*
 - *Legal clinics opened in three major cities and staffed to receive 200 internally displaced persons and other persons of concern each month.*
 - *First draft of reviewed IDP legislation debated in parliamentary committee by 30 June.*
 - *Regional credit schemes open up specific programmes for internally displaced persons.*

Whether impact or performance indicators, they should always be sensitive to age, gender and diversity.

Indicators can also be:

1. **Qualitative**, where they reflect opinions, judgements and attitudes about a given situation or issue; or
2. **Quantitative**, where they measure the amount of something, such as the percentage of IDP girls and boys who attend primary school as compared to a baseline level.



Part IV

ACTIVITIES AND TOOLS FOR PROTECTION

(Guidance Notes)

Photo Katharina Rohl; courtesy of Prof. Walter Kaelin, Representative of the UN Secretary General on the Human Rights of IDPs / OHCHR. Azerbaijan - IDP collective centre Sungayit.

Overview

The humanitarian response to situations of armed conflict or natural disasters involves a broad range of generic protection and assistance activities, which are usually strategically combined, as illustrated in Part III. The way in which humanitarian actors plan, implement or combine these activities may have a vital impact on the situation of the civilian population.

Part IV of the Handbook offers guidance to help staff in the field to maximize the potential of such activities for protecting internally displaced persons and other affected populations of different ages, sex and backgrounds. While it focuses on twelve activities, presented in the form of *Guidance Notes*, Part IV is not an exhaustive account of possible interventions. Activities herein have been selected following close consultation with the contributing organizations to the provisional release of the Handbook. The protection potential of such activities and their prevalence in IDP field operations were important criteria leading to the final selection.

The *Guidance Notes* aim to highlight ways in which each activity can support IDPs and other persons of concern in realizing their rights. They also provide suggestions to build and strengthen the capacity of national authorities and communities at different levels to fulfil those rights. In doing so, they aim to help mitigate the potential for additional protection risks created through these activities. Part IV is closely interlinked with Part V, which deals with specific protection risks, and both parts complement each other.

Suggestions provided in these *Notes* are wide-ranging as they are addressed to humanitarian staff in field operations of a varied nature and purpose. Therefore, humanitarian actors in the field will need to make a judgement call in the allocation of roles and responsibilities as appropriate.

The provisional edition of the Handbook will be field tested during the first half of 2008. All human rights and humanitarian staff and partners are encouraged to provide feedback on the Guidance Notes. Examples of relevant field practices, which will be included in the first edition of the Handbook, are also welcome. All comments and suggestions can be sent to hqidphb@unhcr.org.

Guidance Note 1

Protection Monitoring



Key message

Protection monitoring during internal displacement involves collecting, verifying, and analyzing information in order to identify human rights violations and protection risks encountered by IDPs and other affected populations. Protection monitoring generally takes place over an extended period of time and should be coordinated and undertaken by agencies with a specific mandate and expertise to do so, in cooperation with UN agencies and members of civil society, particularly those directly affected: internally displaced persons and others.

1. What is protection monitoring and why is it done?

The principal objective of protection monitoring is to reinforce the responsibility of State actors and relevant non-State actors to protect IDPs and other affected populations. These State and non-State actors are referred to as “duty-bearers,” because of their obligation to respect, protect and fulfil the rights of “right-holders,” in this case, the IDPs and otherwise affected communities (see Part I.1).

The information gathered and the analysis carried out should also assist in guiding and informing **action by relevant international and national actors**. These actions might include specific interventions on behalf of individuals and groups, the planning and implementation of humanitarian assistance operations, the deployment of peacekeepers, and advocacy and/or other activities by international actors and national and international civil society.

Very often, protection monitoring will be conducted in the context of broader protection assessment exercises, such as during **participatory assessments** being undertaken for the development of a protection strategy (see Part III.1).

1.1. The key principles of protection monitoring

Applying the general principles explained in Part I.1 of the Handbook, protection monitoring must be **independent** and **neutral**, and conducted with respect for the **do-no-harm** concept. Monitors must respect the principle of confidentiality, protect their sources, be sensitive to the feelings of victims and witnesses, and not make promises they cannot fulfil. They should respect the proper functioning of national and local authorities and seek ways to support local capacity building.

Protection-mandated agencies should take any steps necessary to ensure the safety of their monitors, particularly if there is a potential for reprisal or retribution. Protection monitoring agencies should be transparent with State and non-State interlocutors and other concerned populations about the nature of their work. This should be balanced against the need for keeping certain information confidential in order to ensure the safety of the IDPs and monitors.

Monitoring must be based on the rights defined and guaranteed by **relevant international human rights and humanitarian law instruments, regional treaties and national legislation**. Monitors should be familiar with the international and regional mechanisms and mandates established for the protection of human rights (see Part I.2).

Protection monitoring can take **different forms** and **serve different purposes**. These include:

- **General or community-level monitoring**, which assesses changes in the overall protection situation in a community, a village, a region or a country. While it might gather information about specific incidents and affected individuals, general monitoring focuses on understanding trends and patterns in order to inform and improve programming and project implementation. It can be undertaken by most field staff as long as basic protection considerations are taken into account.
- **Incident or individual-level monitoring**, which aims to document human rights violations suffered by victims and survivors. It requires collection of sensitive and often confidential information from victims/survivors or witnesses and might reveal specific protection problems that require immediate response and referral. Ideally, such monitoring contains a case management component. It should always be undertaken by trained protection/human rights monitors. Incident monitoring should not duplicate existing, well functioning national structures.

2. How protection monitoring is done


Protection **monitoring can be conducted under different modalities**. **The choice will be determined by contextual and operational factors**, such as: the type of setting; the size of the population being monitored; the specific operational purpose of the monitoring activity; and the resources (both human and financial) available for monitoring. Monitoring can take place within camps, in rural areas or in urban settings. While always based on the same international standards, monitoring can focus on certain aspects of any given situation. For example, within camps, monitoring can examine distribution systems, the physical locations and layout of camps, health facilities, the situation of vulnerable groups, physical protection, including sexual and gender-based violence and abuse, and issues related to psychological assistance and social welfare.

Monitoring activities should also cover the various phases of the displacement cycle and should include persons already displaced, persons at risk of displacement, returnees, and affected host populations. Different monitoring approaches may be required to monitor these different types of populations.


No one activity or tool for monitoring is appropriate for all situations; yet, the activity or tool used to gather specific pieces of information should be clearly recorded in each situation. That will make it easier to verify the data collected and to confirm that the tool used successfully captured the protection concerns specific to the situation.

The Box below provides an outline of possible activities and tools for monitoring protection:

Some Activities and Tools for Monitoring Protection

- Spot checks or camps/settlement walkabouts, home visits;
- Direct contact by victims or witnesses;
- Surveys of areas of displacement, return or settlement, in total or in random sample;
- Informal or semi structured interviews with individuals in random sample;
- Community, camp management meetings or focus group discussions (with IDPs, host communities, other relevant groups) (*see Part III.1*); 
- Complaints mechanism within agencies;
- Liaison with national human rights institutions;
- Reviewing police or camp security incident records or logbooks;
- Questionnaires to communities;
- Information collected directly from protection interventions, such as Legal Advice Clinics or Women's Protection Centres; or
- Regular meetings among humanitarian agencies and with local actors.
- Review and analysis of reports and documentation by other parties, such as situation reports, protection reports, sub agreement monitoring reports and press reports

While the context and operational purpose will determine how the monitoring is conducted, **protection monitors in all situations** are required to:

- **Collect background information:** Monitors must have a good understanding of the social, political, cultural and economic context, including issues such as the root causes of the displacement, political actors, ethnic tensions, and the role of non-State actors (*see also Part III.1*). 
- **Develop contacts and networks; establish a presence in the community:** Monitors must establish a network of contacts and sources of information. These will generally include members of the displaced and host communities, government officials at various levels, journalists, civil society groups, parliamentarians, and international actors. Such contacts provide both background and case-specific information; they also play a key role in advocacy and follow-up action. Networks of contacts established by other clusters/sectoral groups can also be used and expanded.
- **Collect and document testimonies and complaints:** Information-gathering requires pursuing all credible leads regarding protection concerns, including individual incidents. Monitors should be available and ready to move at any time to receive information, preferably directly from a victim or a witness. The safety of victims and witnesses and of staff should be a key consideration when doing so, particularly immediately after an incident, when tension and risks might still be high. An **Annex on interviewing victims or witness of violations** is attached to this chapter.
- **Identify and prioritize issues to pursue:** Monitors should analyze each reported violation by identifying whether it fits within the mandate of the organization or the interagency approach, and by breaking down the reported violation into its component rights and duties. Depending on the situation and the field capacity, not all issues can be pursued.
- **Verify information concerning an alleged violation:** Monitors are rarely direct witnesses to serious violations; they usually learn of such incidents from victims or other witnesses. Monitoring thus requires techniques for collecting accurate and precise indirect information. Monitors must verify information received, regardless of whether it is from an interview with a victim, a witness statement, the media, or other sources. Monitors should verify the substance of the information with other relevant and trusted actors (preferably more than one), witnesses, organizations or associations that have knowledge of the matter, including by collecting relevant documentation, such as medical reports.

3. Who monitors protection?

Protection monitoring can be undertaken by different groups of actors, or by just one main actor. When monitoring is undertaken by several actors with a range of protection and non-protection expertise, it should be coordinated by one single actor with the required expertise. Having staff from various agencies and organizations involved in monitoring can enhance the coverage and quantity of information collected and increase the number of sources of data.

In order to avoid duplication of efforts and inappropriate sharing of confidential data, monitoring activities should be conducted through an **agreed inter-agency framework that includes clear identification of roles and division of labour based on mandate and expertise**.

Protection monitoring should be coordinated by **actors and staff with specific protection and technical expertise** to ensure appropriate quality control, methodological consistency, and normative and ethical rigour. Agencies with specialized monitoring staff include OHCHR, UNHCR, UNICEF, human rights components of UN peace missions, situation-specific mandates given by UN Security Council resolutions, and ICRC. Amnesty International, Human

Rights Watch and several other NGOs are also specialized in protection-monitoring activities. National human rights institutions also monitor, document and react to rights violations.

National staff are very valuable resources in protection monitoring. They are likely to have more information, local language skills and a deeper understanding of the background and impact of the internal displacement crisis. Monitors and their agencies must, however, remain aware that real or perceived cultural, religious and other affinities of national staff may encourage or, conversely, constrain victims and witnesses from reporting incidents. National staff or their families are also exposed to potential risks of retribution, including from within their own communities.

The ideal protection monitoring presence is thus a mix of national and international staff. **Sensitive demarches with national interlocutors** should be undertaken by international staff when they might expose national colleagues to greater risk.

*Protection monitoring can be greatly enhanced by including **non-specialized individuals and agencies**, such as shelter NGOs, water engineers, logistics staff, as sources of information, but their involvement should normally be **limited** to gathering information at **the community or area level**.*

*Where **individual victims or witnesses** come to the attention of such monitors, the role of the non specialists would generally be restricted to ensuring that the initial report is channelled to **appropriate specialists** for full interview and any relevant follow up. This division of labour is necessary to ensure that victims are not asked to recount painful experiences repeatedly, to preserve the confidentiality of the information, and to ensure that any legal advice given is accurate and appropriate.*

4. Reporting and other follow-up activities

4.1. Reporting

Reporting is an essential element of the monitoring function. While detailed guidance on reporting cannot be provided in this Handbook, there are some general principles that apply to any reporting methodology and to any individual report. Reporting in the context of protection monitoring must be **accurate, objective and precise; prompt and action-oriented**; and should include information on initial response(s) and recommendations for further responses by the organization or through an inter-agency approach. A distinction is normally made between **internal** and **external** reporting:

■ Internal reports:

- **Periodic reports** (situation reports) document a situation, the work accomplished and plans;
- **Emergency reports** alert managers of the need for action, likely on an *ad hoc* basis; they include basic facts and recommendations;
- **Interview reports/questionnaires** record the results of an interview and specify the reliability of the source; and
- **Incident reports** provide an overview of all information collected about an incident.

■ External reports:

- Reports **addressed to the government** as a means of working with the government to improve its protection of IDPs;
- Reports **shared within the wider humanitarian community**, the United Nations (the UN Country Team, the Protection Cluster, the Security Council, the Human Rights Council, treaty mechanisms, or country/thematic *rapporteurs*) and other relevant actors,


such as the diplomatic community. The reports can help shape policy and programming activities by other actors; and

- **Public reports** used as a general public-information and advocacy tool.

Because external reports are generally compiled on the basis of several internal reports, it is crucial that the internal reports provide detailed information, use consistent terminology and adopt consistent approaches to information so that the officer who prepares the external report can rely on the facts gathered, and can draw useful general conclusions regarding trends in the evolving human rights situation. External reports should not include confidential information on victims and sources.

4.2. Other follow-up activities

Protection monitors must often balance monitoring and reporting activities with efforts to follow up on specific human rights violations. **As a general rule, protection monitors should take immediate action on gross human rights violations affecting the physical safety of individuals or groups.** This means either referring the case to specialized agencies, or civil society groups, reporting the case immediately to senior management, or intervening with the national authorities to find a solution.

Standard operating and referral procedures for such actions should be established at the inter-agency level in each field operation. (See also *Parts IV and V* of this Handbook for detailed guidance for addressing specific human rights violations identified in the course of monitoring activities and humanitarian interventions). 



References

- A significant portion of the material in this chapter is adapted from *The OHCHR Training Manual on Human Rights Monitoring*, Professional Training Series No. 7, OHCHR/United Nations, New York and Geneva, 2001. At <http://www.ohchr.org/english/about/publications/training.htm>
- *Enhancing UNHCR's Capacity to Monitor the Protection, Rights and Well-Being of Refugees: Main Report*, Kelley, N., Sandison, P. and Lawry-White, S., UNHCR/EPAU, Geneva, June 2004.
- *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams*, IASC, Geneva Sept 2004.
- *Operational Protection in Camps and Settlements: A Reference Guide to Good Practices in the Protection of Refugees and Other Persons of Concern*, UNHCR/DIPS/SOSS, Geneva, 2006. "Protection Monitoring."
- *Policy Paper Series No. 2: Protection of Internally Displaced Persons*, IASC, United Nations, New York, 2000

Annex I

Interviewing victims and witnesses

The challenge of interviewing in protection monitoring is to *respect the dignity of the interviewee while remaining an objective, neutral and non-judgmental recorder of significant data.*

Interviewing victims and witnesses of violations is a **complex and delicate activity** that should only be carried out by appropriately trained protection staff.

Protection monitors should consider:

1. whom to interview;
2. how to initiate an interview;
3. who should conduct the interview;
4. how to determine the language in which the interview should be conducted;
5. who should translate;
6. where the interview should take place, in order to protect the witness;
7. how the interview should be recorded so that the information is both objectively documented and protected;
8. how to handle cultural differences, such as notions of time, place and truth, that might inhibit communication;
9. how to interview without creating unrealistic expectations regarding access to justice, to humanitarian assistance, to resettlement, etc.; and
10. how to respond appropriately, whether directly or by referral to other specialist agencies, when the interviewee needs immediate attention.

All monitors need to:

- develop a rapport with the interviewee,
- explain the interview process and the mandate of the organization or of the inter-agency approach,
- discuss the ground rules for the interview,
- talk about how the witness might be protected (without creating false expectations) after the interview,
- anticipate how the information will be used, and
- encourage the witness to tell his/her story truthfully in his/her own words before asking specific questions.

In all cases, seek the written consent of interviewees before attributing to them the information provided. Monitors must be trained to identify and respond appropriately to the particular needs and traits of some categories of interviewees, including victims of torture, women, children, and persons with disabilities. Monitors will also need to be in a position to assess the credibility of the witness or the victim in order to ensure that the information collected is reliable.

When establishing protection monitoring system(s) for an IDP situation, the coordinating or lead agency should establish standard operating procedures, backed up by training to determine when interviews should be conducted by specialists. It should also develop that specialist capacity appropriately.

Guidance Note 2

Humanitarian Access and Presence

1. Humanitarian access

Gaining access to internally displaced populations is essential to identifying and ultimately responding to their protection and assistance needs. **Humanitarian access** should be understood both from the perspective of the affected population having access to protection and assistance, as well as the humanitarian actors having access to those requiring assistance and protection.

There are often multiple and varied constraints on access. These may be related to the operating environment, e.g. difficult terrain, absence of roads and airstrips, ongoing armed conflict; or constraints may be a result of deliberate efforts to restrict humanitarian activities or witnessing functions. The latter may take the form of, for instance, excessive bureaucracy to grant access to humanitarian organizations to certain populations or areas; deliberate attacks on humanitarian personnel; or not acknowledging the existence of humanitarian needs by part of the population.

Gaining humanitarian access may need a **strategic combination of measures** to address the various constraints. In armed conflict situations, **humanitarian negotiations** may be a critical element in a strategy to ensure sound conditions for an effective protection presence and for sustainable assistance and protection activities (*see box below*).

Formal negotiations for humanitarian access usually take place between the country team, led by the Humanitarian Coordinator, or the Resident Coordinator in the absence of the latter, and the government or non-State actors.

Occasionally, specialized agencies with responsibility for a particular beneficiary group/sector might also engage in more detailed negotiations relating to their specific mandates.


Negotiating access with non-State actors proves particularly challenging if they have complex and unpredictable structures, or lack knowledge of basic humanitarian principles. Negotiating with non-State actors may also trigger a variety of ethical or moral dilemmas as well as suspicion by other parties.¹

“The overall purpose of **humanitarian negotiations** is to ensure the impartial protection of, and the provision of assistance to, civilians affected by armed conflict and other people rendered *hors de combat*, as stipulated by international humanitarian law, human rights law and refugee law. Humanitarian negotiations are conducted:



- **by humanitarian actors**, such as members of appropriately mandated and impartial organizations like UN agencies, NGOs or the International Committee of the Red Cross (ICRC);
- **for humanitarian objectives**, including humanitarian access, protection, assessment and assistance, as set out in international humanitarian law;
- **in countries affected by armed conflict**, either of an international or non international character; and
- **with the parties to the conflict**, that is, those with power and responsibility for the conduct of war, for the humane treatment of civilians and those *hors de combat* and for the distribution of assistance.”

Excerpt from *Humanitarian Negotiation: A handbook for securing access, assistance and protection for civilians in armed conflict*, p.19 (see under resources below).

¹ The potential political or security implications connected with establishing a dialogue with a party to a conflict should be considered when negotiating with both State and non-State actors. See *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, United Nations, New York, 2006, p. 10.

The implementation of access agreements often requires contact and further negotiations with a myriad of actors, both bound and not bound by these access agreements. Consequently, staff working at the country and regional/field levels need to develop sound negotiating skills and a good understanding of issues related to humanitarian access and presence (see Part II.2). 

The following table provides basic guidance for humanitarian negotiations on access and should be read in connection with the Negotiation Section in Part II of this Handbook. It could be useful to **discuss this table within the inter-agency team and national interlocutors at the local level to ensure a shared understanding.**

Negotiating Access	
<i>Be prepared for access negotiations</i>	<p>Develop a negotiating strategy and, at a minimum:</p> <ul style="list-style-type: none"> ● Conduct a thorough situation analysis, understanding both your own, as well as your negotiating partner’s position <u>and</u> interests, particularly <i>vis-à-vis</i> the civilian population, activities of humanitarian organisations, the parties to the conflict, and the potential delivery of humanitarian supplies and resources. ● Identify which actors (both State and non-State) have authority to grant access as well as who among them has the authority to negotiate or to act as intermediary. ● Develop a coordinated approach with humanitarian partners to identify: <ul style="list-style-type: none"> – who among humanitarian actors should lead the negotiations or act as intermediary; – constraints on access; – key objectives; – bottom line for the negotiation; and – non-negotiable parameters (see below).
<i>Agree with partners on “non-negotiable parameters”</i>	<ul style="list-style-type: none"> ● Ensure that all humanitarian partners agree on a series of non-negotiable parameters. These should include: core humanitarian principles (see Part I.1.5);  the prohibition of payment in exchange for access; the ability to conduct independent assessments, monitoring and evaluating aid distribution; respect for basic organizational policy principles; and rules on armed personnel. ● Approach negotiations with a set of previously-agreed working principles regarding humanitarian access, such as the sustainability of access.
<i>Carefully gauge and state the purpose of access</i>	<ul style="list-style-type: none"> ● Highlight the importance of access as a precondition for humanitarian action; emphasize the need to meet the humanitarian needs of a population, rather than gaining access to a particular territory. ● Emphasize the centrality of upholding humanitarian principles (humanity, impartiality, and neutrality) as the basis for gaining access (see Part I.1.5).  ● Be cautious of potential attempts by counterparts to incorporate political and security issues within humanitarian negotiations. These matters should be referred to those with authority to negotiate on such issues. ● Especially if there is a risk that access will be denied altogether, present the objectives of access in a balanced way during the negotiations. Access and presence gained for the purpose of baseline needs assessment or emergency assistance can provide a vital starting point for protection work.²
<i>Negotiations do not confer recognition</i>	<ul style="list-style-type: none"> ● Maintain transparency with all parties to ensure that all understand that access negotiations are of a strictly humanitarian character and do not in any way confer recognition upon the group or its aims.

² Negotiating access primarily for the purposes of protection work can be a sensitive issue in new crises where there has been no time for building confidence between humanitarian actors and national authorities.

Prioritize safety aspects	<ul style="list-style-type: none"> • Emphasize safe access during the negotiations, including the safety of cargo, agency staff, partners and affected populations.
Include key logistical aspects in the negotiations	<ul style="list-style-type: none"> • Ensure that negotiations include key logistical aspects associated with access, that is, the details of how access will actually work, such as the frequency of convoys, the duration of humanitarian presence. • Consider liaison arrangements that ensure free passage through checkpoints to reach the intended beneficiaries. • Seek formal clarity on how parties communicate agreed access procedures within their respective organizations.

2. Humanitarian presence and its role as a protection tool

Establishing a presence **in situations of internal displacement** is essential for conducting an effective humanitarian operation and implementing a successful protection strategy.

The term “humanitarian presence” refers to the actual deployment of humanitarian agencies in a given location to assist and protect populations in the midst of a humanitarian crisis. Generally, a field presence may be **a deterrent to potential abusers** in the following ways:³

- Humanitarian actors can bear witness to events and expose perpetrators to internal sanctions, prosecution, and moral or political judgments.
- A field presence can provide the space to put into effect rules and systems protecting IDP and other affected populations.
- A field presence restricts the political space available to perpetrators by increasing the cost of abusive actions and limiting options. For example, potential perpetrators might be concerned about their superior’s reaction, damage to their political reputation and post-conflict prospects, or the loss of benefits gained from international collaboration.
- Independent of each agency’s mandate, a humanitarian presence may have psychological value. Affected populations often feel reassured when representatives of the international community can witness their situation and report on it.

Note: While in all these situations humanitarian presence can play an important protection role, **presence alone is not sufficient**. If not planned and implemented strategically on the basis of a common vision of protection by all humanitarian partners, their presence may have little or no impact on the protection of affected communities; rather, it may place these communities at greater risk. In some cases, it may even become an excuse for political inaction and embolden perpetrators.

3. Key considerations for maintaining a protective presence

Depending on the situation and the mandate of the specific agency, humanitarian presence may have the objective of accompanying populations at risk; monitoring and reporting human rights situations; or contributing to the protection and assistance of IDPs and other affected populations.

The following table suggests key considerations to maximize the protective impact of humanitarian presence. It also aims to assist in avoiding undesired effects of humanitarian presence that may place local communities and civilians in general at greater risk.

³ See, Mahony, Liam, *Proactive Presence: Field Strategies for civilian protection*, Henry Dunant Centre for Humanitarian Dialogue, Geneva, 2006.

A protective and Strategic Presence

Common assessment, planning and coordination (see Part III.1)



- All humanitarian partners must have a shared vision of how the core principles of humanitarian action – humanity, neutrality, and impartiality – will be applied to the specific operation. Ensure that all staff is aware and understands the practical implications of such shared vision (see Part I.1).
- All humanitarian partners in the operation (both protection and non-protection mandated agencies) should agree on basic parameters to ensure a protective presence. This is essential to maximize the level of influence on relevant parties, guard against potential manipulation of individual agencies by the various parties, and maximize the protection impact of relief interventions. This implies:
 - To agree on key objectives for the humanitarian presence in the country;
 - To reach a shared understanding of protection gaps (see Part III.1 and 2);
 - To agree upon a strategy to address identified protection gaps, coordinating leadership and different responsibilities for protection (see Part III.2);
 - To ensure that all staff is aware of the different activities and the potential risks associated with the strategy in light of the political and security situation;
 - To ensure the training of all humanitarian staff on the core humanitarian principles and the fundamentals of protection work (see Part I.1);
 - To take into consideration the potential risks and sensitivities linked to different staff members’ ethnic, religious, linguistic or perceived affiliations. This is particularly important when presence through national staff *only* is allowed.

Activities during presence

- In implementing their activities, all humanitarian actors should ensure that IDPs and the other affected populations are aware of their presence, mandate and/or objectives. Agency-specific visibility signs on clothes, vehicles and office facilities may enable persons of concern to easily identify and have access to humanitarian and protection mandated agencies.
- When interacting with IDPs and other affected populations, avoid creating a false sense of safety associated with an international presence. In certain situations, this may place vulnerable populations at greater risk. For example, populations may erroneously opt to remain in areas with an international presence instead of moving elsewhere or even seeking asylum in a neighbouring country.
- When sharing humanitarian action plans and protection strategies with affected populations, be realistic and transparent as to what can be achieved. If humanitarian presence does not render the expected results, it might generate disappointment among IDPs and other affected populations. This can add to their difficulties in regaining hope and overcoming the trauma resulting from their personal experiences during conflict (see Part IV.6).
- Be aware of the possibility of placing particular individuals at risk by being seen interacting with them. If interacting with specific individuals seems unavoidable in order to prevent a major human rights violation from taking place or to improve the protection of part of the affected populations, ensure that the relevant individuals are aware of:
 - the potential risks resulting from interacting with humanitarian partners.
 - that the discussions or testimony will not render them any material or financial benefits;
 - the interaction is voluntary and individuals are clearly given the choice to decline it (see Part IV.1);
 - the purpose of the humanitarian presence and its intended impact on the community.



Impact analysis*(see Part III.3)*

- Programme evaluations should analyze the impact of the humanitarian presence. In particular, they should assess whether:
 - Presence is reduced to a “witnessing” function of serious and systematic human rights violations, which might provide a sense of impunity and increase risks to the victims, witnesses, humanitarian workers and affected populations in general;
 - Presence puts individuals or affected communities at risk;
 - Presence unduly prolongs displacement by pursuing protracted encampment policies and concentrating assistance in areas away from those where IDPs can find durable solutions.
- In any of the above cases, humanitarian actors need to take determined action to avert such undesired effects of their presence. This may imply:
 - Revising operating modalities to address negative impacts. This may be the case when humanitarian assistance to IDPs creates situations of discrimination or tension vis-à-vis other affected populations; or when expanding humanitarian support to all affected populations can ensure that IDPs can leave camps or sites and integrate with the rest of the population without draining local resources.
 - In certain extreme circumstances, it may be necessary for humanitarian actors to withdraw to allow for political action. This may be the case where an international humanitarian presence has repeatedly failed to curb systematic violence and abuse.

**Resources**

- *Humanitarian Negotiation: A handbook for securing access, assistance and protection for civilians in armed conflict*, Mancini-Griffoli and Andre Picot, Centre for Humanitarian Dialogue, Geneva 2004.
- *Proactive Presence: Field Strategies for Civilian Protection*, Mahoney, L., Centre for Humanitarian Dialogue, Geneva, 2006.
- *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, United Nations, New York, 2006.
- *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, an evaluation by Simon Bagshaw and Diane Paul, the Brookings Institution-SAIS Project on Internal Displacement and the United Nations, OCHA-IDD, November 2004.
- *Protection: An ALNAP Guide for Humanitarian Agencies*, Slim, H., and Bonwick, A., ALNAP, Overseas Development Institute, London, 2005.

**Useful Websites**

- Centre for Humanitarian Dialogue: www.hdcentre.org
- Programme on Negotiation, Harvard Law School: www.pon.harvard.edu
- United Nations Children Fund (UNICEF): www.unicef.org
- Reliefweb (OCHA): www.reliefweb.int
- Overseas Development Institute: www.odi.org.uk

Guidance Note 3

Advocacy

1. Advocacy and its protection value

Practiced by most stakeholders in humanitarian crises, advocacy is a set of activities aimed to promote change to bring policy, practice or law in compliance with international standards. In situations of internal displacement, advocacy is a vital tool to influence decision makers and stakeholders to adopt practices and policies that ensure the protection of internally displaced persons.




Advocacy is a central building block of most comprehensive protection strategies. If strategically combined with other protection activities, such as information dissemination, monitoring or negotiation, it can greatly contribute to transform underlying systems and structures that affect IDPs.

2. Key considerations for an advocacy strategy to improve protection



Most of the work of developing an advocacy strategy takes place before taking public action on the issue. An **effective advocacy strategy**¹ includes:

- Determining the objectives of advocacy;
- Identifying the best target groups to address and focal points within these groups; and
- Determining the modalities and the tactics for the advocacy activities.

2.1 Objectives

- Set **realistic** and **clear objectives**. This will require breaking apart a specific protection objective into a set of sub-objectives to be achieved through different and complementary mechanisms. For instance:
 - To define the desired outcome, it is essential to **become thoroughly familiar with the issue of concern**, including legal, policy and other issues related to the protection risks at hand. *Protection monitoring* can be very useful to identify protection trends and patterns, which may inform advocacy activities and contribute to measure the impact of advocacy efforts on the lives of those concerned (see Part IV.1); 
 - When facing a particular protection risk, such as lack of access to public services because IDPs lack documentation, one should try to figure out **what is the expected change**. Too often we focus our advocacy efforts on protection concerns without promoting the best solution. A good understanding of the local legal and justice system, including the *traditional justice system* where it exists, is important to advocate for effective solutions to situations of inequality or conflict (see Part V.10). 
 - **IDPs' real-life experiences** will be central to determine both the nature of the problem and the potential solution(s). **Describing the problem** and asking different members of the communities to come up with possible solutions is a good way to build a larger constituency to support advocacy efforts. Therefore, while continuing to document and discuss the relevant protection concerns, it is important to **involve others in finding creative solutions to the problem**. 

¹ Parts of this section have been adapted from *Handbook: Information, Counselling, Legal Assistance*, Norwegian Refugee Council, 2004, pp. 26-29.

- **Other variables, such as sex, ethnicity, socio-economic class, or disability** may also influence discrimination, violence or other protection risks experienced by IDPs. It is thus necessary to analyze the specific risks and needs of particular individuals or groups and build them into the formulation of the advocacy objectives.
- **Two organizational goals** should always be part of the advocacy strategy:
 - **Increasing community participation:** Reach out to individuals or groups, including IDPs and members of other affected populations, who are not actively advocating for the same objectives but who would have an interest in the issue. Give them an opportunity to work on something they care about (see Part IV.10). 
 - **Promoting an inter-agency approach to the advocacy strategy:** Promote the participation of other protection-mandated organizations as well as those in other clusters/sectors who have shared concerns. Civil society groups and national institutions should also be involved to the greatest extent possible.
- Try to reach **agreement about potential areas of compromise and non-negotiable issues**. Those involved must be willing to abandon advocacy activities if the only way to achieve part of the plan is to compromise on the non-negotiable issues. Otherwise, if advocacy activities take off without a clear vision of the desired outcomes, there is a risk of achieving undesirable solutions, making existing problems worse, or creating new ones for the IDPs or the other affected population (see Part II on team work and negotiations). 

2.2 Advocacy targets

- An advocacy strategy for protection should target **stakeholders who have or can have influence on the protection concerns of IDPs or other affected populations with the aim of bringing about a change**. Different target groups can be:
 - **National decision and policy makers**, such as national authorities from the executive, legislative and judicial branches, community leaders, both official and de-facto, non-State actors, rebel and paramilitary groups;
 - **Local actors and institutions that might play a key role in achieving the intended objective**, for example, if the objective is eliminating discrimination in accessing public services, such as health or education, key actors will be doctors, nurses, school masters or teachers;
 - **Individuals or groups who might have an interest in the issue at stake and who would join and strengthen existing advocacy efforts**, such as IDPs and members of other affected communities, local civil-society groups, the business sector and the media. As discussed above, much of the early part of an advocacy strategy involves building community support for the issues at stake; and
 - **The international community**, which may include foreign governments with regional and/or domestic influence (advocacy activities are usually conducted via their embassies in the country, consulates or other offices, such as government development agencies), regional and international courts, relevant human rights bodies and mechanisms, humanitarian organizations, such as the United Nations, and NGOs.
- **Determine who has the power to make the desired decision** and understand how that person **relates to other people in the community's power structure**. If there are various decision-makers, discuss the relationship among them with your partners, as well as your and their history of contact with them. This will help identify who, among advocacy partners, is the best placed to address each interlocutor.
- **Identify particular authorities or institutions that might be closer to your views or objectives**. Governments or authority structures are not homogeneous, and it is helpful to develop a relationship with a broad range of actors who could eventually support the relevant advocacy goals, either by influencing key decision-makers from within their own institutions or by providing useful advice on how to influence change.



2.3 Key approaches to advocacy for protection purposes

a. *Formal versus informal advocacy*

- **Informal advocacy activities** take place all the time in humanitarian crises in the form of **talks** and **discussions** among key stakeholders. Even though it might not be formally acknowledged, humanitarian workers, particularly those with a protection mandate, members of the affected populations and local authorities spend most of their time advocating with their respective interlocutors. Each discussion, even at the most informal level, can have an impact on other stakeholders. Given the political sensitivity of IDP protection advocacy work, the potential effect of all positions and activities undertaken, even at the informal level, must be carefully considered at all times.
- **Formal advocacy activities**, which can be carried out through **position statements, analytical documents or letters to the authorities, humanitarian organizations and community leaders**, help ensure accuracy in the wording of advocacy messages, thereby countering rumours; they can also have a multiplying effect, since they can be widely disseminated among other stakeholders.

b. *Soft versus hard advocacy*

- **“Soft” advocacy activities**, such as **awareness-raising, training activities and quiet diplomacy**, are usually the preferred option *to persuade* stakeholders to introduce change or expand the use of good practices for the protection of IDPs. It can also be useful *to mobilize* other individuals or groups in support of advocacy efforts for a specific cause. Such activities are usually preferred in long-term advocacy strategies and for situations that require social change. When there are serious protection risks, the sole use of soft advocacy activities is insufficient.
- **“Hard” advocacy**, consisting of stronger persuasion methods such as **public reports, press releases, personal testimonies and denunciation letters, even if confidential**, should be used when a stronger approach is required. It can be effective in *denouncing* corruption, discrimination or harmful treatment of IDPs and the other affected populations.

The use of hard advocacy should be determined on a case-by-case basis. It could disrupt dialogue with key stakeholders, prompt a denial of humanitarian access to vital areas, or heighten the risks to the affected populations or humanitarian staff. The decision should thus be carefully weighed against the urgency and seriousness of the protection concerns. If it is determined that hard advocacy should be used, do so in a timely manner, before the situation becomes too grave or the damage done is irreparable.

c. *Quiet versus public interventions*

- **Quiet advocacy**, such as **quiet diplomacy for the transfer of land to displaced persons, or confidential letters denouncing discrimination against individuals**, can allow authorities and other relevant stakeholders to take corrective action and “save face”; they can also help maintain frank but discreet communication with both sides in a conflict. Humanitarian actors must preserve impartiality and neutrality to ensure continued dialogue, access and open channels of cooperation.² At times, this may prevent them from making public statements on protection concerns. Perceived silence from the humanitarian community may discourage local advocacy groups from undertaking their own advocacy efforts, as they might feel isolated and therefore at greater risk.³ At the same time, the perception that specific humanitarian actors might not be raising protection concerns with the relevant stakeholder risks undermining the trust of the local population, who may cease to regard humanitarian actors as impartial.

² Proponents of this view hold that a protection advocacy role is more the function of the media and human rights NGOs, such as Amnesty International or Human Rights Watch. See discussion in: *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, an evaluation by Simon Bagshaw and Diane Paul, The Brookings Institution-SAIS Project on Internal Displacement and the United Nations, OCHA-IDD, November 2004, p. 40.


³ *Ibid.*, p. 42.



- **Public advocacy**, if used carefully, can be effective in improving the protection of IDPs. It includes a wide range of “soft” **public advocacy activities** that can enhance protection for IDPs, **such as public-awareness campaigns on human rights and sensitization of communities to IDP returns**. They can be instrumental in raising the profile of communities at risk of displacement or human rights violations, promoting awareness of the consequences of displacement and the rights of IDPs, and encouraging the involvement of civil society, and the commitment of the international community to address such issues.


2.4 Key considerations for the implementation of an advocacy strategy⁴

In selecting the right approach to deliver advocacy messages, it is important to refer to and apply attitudes and skills presented in Part II of this Handbook. In addition, we should:

- **Watch for potential risks to persons of concern and humanitarian staff.** Because internal displacement usually unfolds in the midst of tension, violence and volatility, it is important to assess the potential consequences of the different approaches. In the case of individual advocacy initiatives, it is vital to ensure victim safety, maintain confidentiality and respect the wishes of the victim regarding advocacy action on his/her behalf. It is essential to elicit feedback from persons of concern about the proposed advocacy actions.
- **Calculate the timing to intervene in light of the expected impact.** Reversing a finalized decision is always far more challenging and unlikely to happen in the short term. Try to launch advocacy campaigns to influence the decision-makers before a final decision has been made.
- **Identify agencies or groups in other communities or countries that have undertaken a similar advocacy strategy.** A large number of operational partners and civil-society groups can provide valuable information about their experiences to strengthen the advocacy strategy. Some of them might also be instrumental in influencing the government response.
- **Build community support in the early part of the strategy.** Plan to concentrate efforts on direct contact with individuals and small groups at the beginning of the strategy to inform and reinforce the overall advocacy campaign from the outset. This will also leave time for more substantive activities during the later stages of the strategy.
- **Do not assume that the other interlocutors are knowledgeable about the issues.** Be aware that the target audience will probably not have the same in-depth understanding of the issue at hand as the humanitarian actors. Given that, formulate advocacy tools, documents and messages that enable the target audience to understand the protection issue at hand. If necessary, develop an information plan about the problem or concern that will explain the desired outcome, address possible objections to change, and identify potential sources of support (*see Part IV.6*). 
- **Understand what each interlocutor can or cannot do for the relevant issues** you pursue through advocacy. Avoid overwhelming your target interlocutors with requests that are beyond their control or area of influence. Mobilize them to take concrete actions and maintain motivation and commitment.
- **Formulate effective advocacy messages.** Such messages have two parts: an appeal on the merits (“this issue is important because...”) and an appeal to self-interest (“... if you allow access to this group...tension in this area will decrease and you will be able to focus more on developmental projects”).
- **Involve the media as appropriate.** It is often useful to manage a flexible approach with the media, gradually increasing its involvement, as the team decides to go more public on the issue. This will help to keep control of public focus on the specific issue, thereby managing potential risks. Contact well-known reporters or editors whom the organization or partners think might be objectively interested in the issue, and keep them up-to-date on basic developments so that they can step in at the key moments.




⁴ Many of these points have been adapted from *Women's Human Rights Step by Step*, Women Law and Development International and Human Rights Watch Women's Rights Project, 1997.

- **Always follow up on advocacy meetings.** Send a letter to the relevant interlocutor summarizing the key advocacy messages transmitted during the meeting and any decisions taken. Debrief your organization/cluster/working group immediately after advocacy meetings and be transparent about this with your interlocutors. Depending on confidentiality requirements and the sensitivity of the protection concerns at hand, debriefings can be public or remain confidential.
- **Review the advocacy strategy during implementation and adjust it as necessary.** In doing so, review the initial objectives of the advocacy strategy and check their practicality and validity against the present situation. Seek feedback from relevant stakeholders, including affected communities, partner agencies, the media, and public and national authorities, as appropriate (see Part III.3). 

3. Challenges in advocating for the protection of IDPs

Internal displacement situations often present difficulties for advocacy, particularly when there are protection issues at stake.

- **Security concerns** have an increasingly important impact on protection advocacy strategies. At the international level, concern for the security of staff members on the ground can affect the ability of organizations to raise protection concerns publicly. This presents a potential dilemma, since the failure to address human rights issues can, in turn, undermine the effectiveness of humanitarian programmes.
- Advocacy activities targeting influential States are often crucial for increasing diplomatic pressure on concerned governments to address protection issues. Potentially influential countries might share, in principle, a common position with the humanitarian community, yet **strong commercial or geo-political ties** with the concerned State can make it difficult for them to intervene when required.
- For some actors, it can be extremely challenging to balance **broad interventions**, such as a political role in conflict-resolution in a given country or between different States, **with single advocacy actions**, such as publicly intervening or advocating in relation to an individual human rights situation. It may be a strategic decision in some situations to use soft and low-key advocacy so as not to disrupt wider efforts to resolve the conflict.
- **When advocacy fails:** when advocacy “does not produce the desired outcome,”⁵ the international community might be faced with difficult decisions, such as whether to continue maintaining a presence in the country or to tie continued humanitarian assistance to real improvement in the protection of IDPs (see Parts IV.2 and IV.7). 



Resources

- *Guide to International Human Rights Mechanisms for Internally Displaced Persons and their Advocates*, Fisher, D., The Brookings Institution-University of Bern Project on Internal Displacement, June 2006.
- *Humanitarian Negotiations with Armed Groups: A Manual for Practitioners*, United Nations, New York, 2006.
- *Proactive Presence: Field Strategies for Civilian Protection*, Mahoney, L., Centre for Humanitarian Dialogue, Geneva, 2006.
- *Protect or Neglect? Toward a More Effective United Nations Approach to the Protection of Internally Displaced Persons*, an evaluation by Simon Bagshaw and Diane Paul, The Brookings Institution-SAIS Project on Internal Displacement and the United Nations, OCHA-IDD, November 2004.
- *Protection: An ALNAP Guide for Humanitarian Agencies*, Slim, H., and Bonwick, A., ALNAP, Overseas Development Institute, London, 2005.
- *Protection of Internally Displaced Persons*, Policy Paper Series, No. 2, OCHA/IASC, United Nations, New York, 2000.

⁵ *Protect or Neglect*, op. cit., p. 56.

Guidance Note 4

Capacity-building

1. A definition

Too often, capacity-building tends to be equated with training. Certainly, training is a means to this end; but capacity-building is much more. It entails:

The creation of an enabling environment, with appropriate policy and legal frameworks, institutional development, including community participation (of women in particular), human-resources development and strengthening of managerial systems.

Specifically, this requires efforts in three main areas:

- **equipping individuals and communities** with the understanding, skills and access to information, knowledge and training that enables them to perform effectively.
- developing effective **management structures, processes and procedures** within organizations and for managing relationships among different organizations and partners.
- putting in place **institutional, legal and regulatory frameworks** to enable organizations, institutions and agencies at all levels and in all sectors (public, private, and community) to enhance their capacities.

Capacity-building therefore is not a single activity or an end in itself. It is a long-term, continual process aimed at reinforcing human, institutional and community performance, skills, knowledge and attitudes **on a sustainable basis**.²

2. Why capacity-building is important for the protection of IDPs

Protection of internally displaced persons and all other persons within their own countries is a *national responsibility*. In many humanitarian crises, however, the authorities lack adequate capacity or even readiness to adequately fulfill their duty to protect. Building or rebuilding national and local authorities' protection capacity is essential, both for an effective response to and recovery from existing humanitarian crises and for preventing future crises.

Capacity-building must be a core element of any protection strategy, including in situations of internal displacement.

Capacity-building must extend beyond the government. Supporting the development of a **vibrant civil society**, including local human rights and humanitarian NGOs, community-based organizations and an independent media, is just as important. Indeed, this will complement and reinforce efforts to enhance the protection capacity of the authorities.


Supporting the **capacities of IDPs and other affected persons** is absolutely critical. It is an integral element of enabling IDPs and other affected populations to exercise and claim their

"...simply strengthening the skills of the government does not necessarily create an accountable government. In partnering with government agencies, it is essential that humanitarian agencies do not ignore partnership opportunities with national organizations. A strong civil society provides an important check on government power."

Brooke Allen, *Time to Reassess Capacity Building Partnerships*, FMR, No. 28, 2007, p. 4.

¹ This definition for *capacity building* has been taken on board by a broad range of humanitarian and development actors. It was adopted at the UNDP Symposium *A Strategy for Water Sector Capacity Building*, Delft, 3-5 June, 1991, IHE/UNDP, Delft/New York.


² *Practical Guide to Capacity-building as a Feature of UNHCR's Humanitarian Programmes*, UNHCR, 1999.



rights; it contributes to operationalize a rights- and community-based approach, which is fundamental to effective protection (see Part I.1 and Part IV.10). 

3. Building and strengthening national capacity to address internal displacement

In general, capacity-building activities in situations of internal displacement should aim to promote and support an effective national protection response to internal displacement. At a minimum, this means a response that conforms to international standards and addresses the protection risks faced by IDPs. The specific activities should target the three main levels highlighted at the beginning of this note, namely, the individual, managerial and institutional levels.





3.1 The capacity of national authorities

The *Framework for National Responsibility*³ identifies 12 steps that governments can take to address material displacement (see also Part I.1).  Using this *Framework* as a guide, the matrix below provides some ideas for **activities to build and strengthen the protection capacities of the government and public institutions** in the 12 areas.



The 12 steps	Suggested capacity-building activities
<p>1. Prevention of arbitrary displacement (see Part V.1)</p> 	<ul style="list-style-type: none"> ● Engage in a constructive dialogue with government officials, including security forces, and other relevant actors, as appropriate, in order to raise awareness on and prevent conditions and activities that may lead to arbitrary displacement. ● Ensure governments and other authorities are aware of the basic guarantees and conditions to be met in situations of displacement, including by: <ul style="list-style-type: none"> – Disseminating information on the application of international human rights and international humanitarian law standards; – Providing training on applicable standards and measures for mitigating the adverse effects of displacement, including the importance of maintaining family unity in emergency situations; and – Providing advice on contingency planning and on the procurement, storage and delivery of emergency assistance. ● Support the development or strengthening of early-warning mechanisms (often put in place by local NGOs and community networks) that alert populations under threat to imminent risk, and establish effective channels for communicating this information so early protective responses can be initiated.
<p>2. Raise national awareness of the problem (see Part IV.10)</p> 	<ul style="list-style-type: none"> ● Facilitate dissemination of information about the protection concerns of IDPs and other affected communities, particularly among all relevant branches of government. ● Support the efforts of IDP representatives, including women, minorities, and youth, and other affected populations to advocate for their rights, while taking into account any security risks that may arise. ● Support community-mobilization activities aimed at building awareness and momentum among national stakeholders, encouraging all actors to help achieve commonly agreed objectives to enhance the protection of IDPs and other affected populations.

³ *Addressing Internal Displacement: A Framework for National Responsibility*, The Brookings Institution-University of Bern Project on Internal Displacement, May 2005.

The 12 steps Suggested capacity-building activities (cont.)

3. Data collection	<ul style="list-style-type: none"> • Consider including government officials in inter-agency participatory assessments to raise awareness of the protection risks and capacities of IDPs and other affected populations (see <i>Part III.1</i>).  • Provide technical support for efforts to gain an understanding of trends and protection concerns, such as through IDP profiling, in camps and in non-camp and urban settings, where displacement often is less visible (see <i>Part IV.8</i>).  • Raise awareness of the need to disaggregate data by age, sex and other indicators essential for addressing the specific needs of different groups of IDPs. • Insist upon and, as necessary, offer technical support on data management and protection to ensure privacy, confidentiality and safety of individuals and communities during and following data collection. • Monitor to ensure that data collected is not used in a discriminatory manner or for unlawful purposes.
4. Training on the rights of IDPs	<ul style="list-style-type: none"> • Support training on the rights of IDPs, as summarized in the <i>Guiding Principles on Internal Displacement</i>. • Promote “training of trainers” events to maximize a “multiplier effect.” • Provide training for government officials, at the national, regional and local levels, including the military, police and camp administrators, other relevant authorities, such as non-State actors who also have protection responsibilities under international law, and staff of national human rights institutions, parliamentarians, civil society and IDP communities. • Consider bringing diverse actors together for a joint training session, which can help foster cooperation among them. • Tailor training to address identified gaps in knowledge or skills, such as to provide more in-depth discussion of particular protection issues, and consider discussing possible response strategies. • Facilitate the translation, into local languages, and dissemination of training materials on IDP protection, including the <i>Guiding Principles</i>. • Promote contact among government officials, civil society, and IDP representatives from other countries to exchange knowledge on best practices and lessons learned.
5. A national legal framework for upholding the rights of IDPs	<ul style="list-style-type: none"> • Encourage and support efforts by the government and civil society, such as lawyers’ associations, to review the compatibility of national legislation with the <i>Guiding Principles on Internal Displacement</i> and with international human rights and international humanitarian law, offering technical assistance as required. • Support the assessment of IDPs’ ability to access their rights and subsequent efforts to promote the adoption of legal and procedural safeguards or amendments to overcome any legal barriers. Bring this information to the attention of the Government (see <i>Part V.10</i>).  • Support clinics that provide legal assistance and information on the rights of IDPs and ensure their sustainability (see <i>Part IV.5</i>). 
6. A national policy or plan of action	<ul style="list-style-type: none"> • Facilitate open and constructive consultations between affected communities and the authorities to define the actions that need to be taken through a national policy or plan of action. • Share the results of participatory assessments and protection-risk analysis with the authorities to help inform national policy and programmes. • Support government efforts to develop a national policy to address internal displacement. • Advocate for international support for the implementation of a national policy and plans of action that would enhance the protection of IDPs.




<p>7. Institutional focal point on IDPs</p>	<ul style="list-style-type: none"> • Advocate for the designation of an institutional focal point responsible for coordinating the national response to internal displacement. • Cooperate with the IDP institutional focal point and support its efforts through technical and material assistance, as appropriate. • Encourage meaningful dialogue and partnership between this office and IDPs and with civil society working with the displaced.
<p>8. A role for national human rights institutions</p>	<ul style="list-style-type: none"> • Encourage national human rights institutions to integrate protection issues relating to internal displacement into their work. • Raise awareness among the staff of national human rights institutions of the particular protection concerns that can arise during displacement. • Provide technical and material support, as appropriate, to these institutions to monitor, report and follow-up on rights violations.
<p>9. Participation of IDPs in decision-making <i>(see Part VI.10)</i></p> 	<ul style="list-style-type: none"> • Encourage and support the formation of IDP associations, including IDP women's associations, to strengthen IDPs' own efforts to address their concerns and advocate for their rights. • Where feasible, include national and local authorities in the discussion with IDPs and other affected communities about the results of participatory assessment exercises, so that all can jointly decide on the best activities to address protection gaps. • Foster humanitarian space for dialogue among the authorities, IDPs and civil society organizations.
<p>10. Support durable solutions <i>(see Part VI.)</i></p> 	<ul style="list-style-type: none"> • Raise awareness among State institutions of the need to promote the self-reliance of IDPs and other affected populations as early as possible. • Avoid creating parallel assistance or support structures. Ensure, instead, that humanitarian efforts are, or subsequently can be, integrated into national assistance programmes. • Assess the socio-economic integration of IDPs and possible discrimination, advocating for and supporting efforts by the authorities to address any such concerns. • Undertake protection assessments in areas of return or resettlement to identify risks and assist the national authorities in establishing protection mechanisms, particularly related to the rule of law, and ensuring that return or resettlement is voluntary and is done in safety and with dignity. • Advocate and offer technical assistance, as needed, for the establishment of mechanisms for property restitution, compensation or other forms of reparation. • Promote sharing of best practices with other countries in post-conflict situations. • Coordinate with national and local authorities, other humanitarian actors, both local and international, and donors in formulating a strategy for disengagement of humanitarian actors and a smooth and timely transition from humanitarian to development assistance.
<p>11. Resource mobilization</p>	<ul style="list-style-type: none"> • Advocate for and support government efforts to allocate adequate national resources to address internal displacement. • Share inter-agency assessments and planning documents, to the extent possible, to assist with national planning and budgeting. • Support governments that demonstrate efforts to protect IDPs in mobilizing resources, through donor relations and fundraising. • Make use of staff secondment schemes to deploy specialized humanitarian and development expertise to government institutions.



**12.
International
cooperation
when national
capacity is
insufficient**

- Assist the authorities in assessing national capacity to protect internally displaced persons through sharing of baseline data, identified trends and other relevant information.
- Offer support to the authorities to address gaps in the response. Such support can come in the form of technical assistance (such as deployment of staff with required expertise), material support (such as information technology, or vehicles to reach and assist IDPs in remote areas) or financial grants.
- Some general guidelines:
 - Such support should be granted within the framework of a broader protection strategy to fill identified gaps and address priorities.
 - The simultaneous provision of training activities or technical support can help strengthen the effectiveness of this assistance.
 - Care must be taken to ensure that the actors and institutions whose capacities are being reinforced are committed to using these capacities to enhance the protection of rights. It is essential to develop a monitoring system to assess the effectiveness and protection impact of these efforts.
 - Support should be provided in the context of more comprehensive, community-wide efforts, so as to avoid discriminating against other affected communities and thereby creating inequalities and tensions.

3.2 The protection capacities of IDPs and affected communities

From the outset and throughout all of the stages of a displacement crisis, humanitarian efforts need to build upon and reinforce the existing capacities of IDPs and other affected communities (see Part IV.10). 

Even where humanitarian agencies have no alternative but to implement an activity directly, it is essential to empower the community as well. This is not only the most effective way of ensuring the long-term sustainability of such activities; it is also fundamental to community-based and rights-based approaches to protection.

Some tips for capacity-building activities with IDPs and affected communities

- Train community members in the use of participatory methods and ensure age, gender and diversity balance among participants.
- Work with the community to identify the different capacities and skills of the members and agree on the areas on which training and other capacity building opportunities are needed.
- Listen to and build on the creative ideas of different age groups on how to disseminate information on key protection concerns and foster their leadership skills.
- Build bridges between formal civil society groups and members of displaced and other affected communities to support advocacy campaigns on key protection concerns.
- Ensure that all segments of the affected population benefit from training and capacity building opportunities. If a particular group is found to be excluded, determine why and work with communities to address the issue.
- Assist community leaders in informing all members about their responsibilities as duty bearers and rights holders. Raise awareness of values, such as inclusiveness and respect for all, gender and diversity awareness, and the rights of children and older persons.
- Identify appropriately skilled partners to deliver training and ensure that they transmit values according to rights and community based approaches.
- Follow up on how training participants are applying the skills acquired and whether they are training others.
- Discuss with persons in charge of managing community projects whether they require particular support or training. Promote transparent accounting mechanisms.

3.3. The protection capacities of civil society, including national NGOs

While IDPs and other affected populations are part of civil society, it is beneficial for IDPs to work with organized civil society groups. Partnerships with local NGOs or institutions devoted to the promotion and defense of human rights are particularly valuable. These groups, especially those that have been operational for some time, tend to have detailed knowledge of the protection situation and of the dynamics of the conflict and its root causes. They can also often identify potential entry points and opportunities for protection advocacy with national institutions and authorities.

Local NGOs, especially those engaged in humanitarian action, tend to have much greater and more regular access and contact with IDP communities and other affected populations than do international agencies. This generally gives them a better sense of the communities' concerns.

Beyond human rights and humanitarian NGOs, there are often many other civil society bodies that can help promote protection and respect for the rights of the IDPs and other affected populations. Such groups might include, for instance, journalists, trade unions, groups of researchers, student unions, professional associations, such as bar associations and other lawyers' groups, medical associations, social workers, and ethnic or faith-based associations. These actors often have a significant presence and constituencies throughout the country and can be instrumental in raising awareness and influencing public policies.

The aim should be to engage with as **broad and diverse a spectrum of civil society groups as possible**. Having the benefit of a range of views and perspectives helps to deepen our knowledge of the situation, ensure that information is shared, thus improving its reliability, and help safeguard against bias in our assessments or in the perception of our work.

Some tips for capacity-building activities with civil society groups and national NGOs

- Undertake a thorough assessment of existing civil society groups and NGOs to focus on partnerships with those whose activities can have an impact on the protection of IDPs and affected populations. Focus on their capacities and analyze the impact of their past activities.
- Provide material and financial resources to civil society groups advocating for IDP protection to support specific protection activities as well as their own institutional capacity. Promote the sustainability of their efforts and enhance coordination among different groups.
- Identify key resource persons at the local, national and international levels who can provide specialized training to civil society groups in thematic areas. Any training activity should be defined jointly with civil society groups to ensure that it builds on their existing knowledge and capacities and addresses gaps and priority concerns. Such training might include programmes to:
 - address particular protection concerns, such as sexual and gender based violence, child recruitment, property rights;
 - develop skills for specific protection activities, such as human rights monitoring and reporting, advocacy, ensuring that national legislation and policies conform with international standards; or
 - enhance skills essential to the organization's work, such as mobilizing volunteers, fundraising, and managing budgets.
- Support networks of civil society groups within the country, in the region, and with international human rights institutions and NGOs.
- Promote constructive dialogue and a sense of partnership between civil society groups and government institutions, particularly with the government focal point on IDPs, the police, lawmakers and national human rights institutions.
- Promote an understanding of the humanitarian character of NGOs' work with the aim of enhancing their safety when undertaking humanitarian and human rights work. Monitor whether human rights defenders and civil society groups can exercise the right to freedom of expression and association, and can undertake their work without risk. Follow up with the authorities in the case of any violations.



Resources

- *Addressing Internal Displacement: A Framework for National Responsibility*, The Brookings Institution-University of Bern Project on Internal Displacement, 2005: http://www.brookings.edu/fp/projects/idp/20050401_nrframework.htm
- *Enhancing Southern Capacity: Rhetoric and Reality*, Forced Migration Review, No. 28: www.fmreview.org
- *Evaluation of UNHCR's Role in Strengthening National NGOs*, UNHCR, EPAU/2001/01, 2001.
- *National Human Rights Institutions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience*, The Brookings Institution-SAIS Project on Internal Displacement, 2002: www.brookings.edu/fp/projects/idp/idp.htm


Training resources


- **IDP Training** materials developed by the Norwegian Refugee Council's Internal Displacement Monitoring Centre and OHCHR: <http://www.internal-displacement.org/>
- **Annual Course on the Law of Internal Displacement**, organized by the office of the UN Secretary-General's Representative on the human rights of IDPs, at the International Institute of Humanitarian Law, San Remo, Italy (target groups include civilian and military national authorities): <http://www.iihl.org>
- **Essentials of Migration Management for Policy Makers and Practitioners: Course Manual**, International Organization for Migration, 2004 (includes a module on internal displacement).
- **Compendium of Course Curricula on Internal Displacement**, compiled by The Brookings Project on Internal Displacement, 2002: <http://www.brookings.edu/fp/projects/idp/resources/syllabi.htm>

Guidance Note 5

Legal assistance

1. Legal assistance in the context of internal displacement


As internally displaced persons seek remedies to address rights violations, they may need assistance to understand local laws and procedures, to choose and access appropriate mechanisms, or to obtain legal counsel and representation. Legal information and advice can be particularly important to IDPs unfamiliar with the law in the region to which they have been displaced, who have lost or lack the necessary documentation to access remedies, or who do not have sufficient financial resources to pursue the enforcement of their rights. In such circumstances, legal assistance programmes can play a crucial role to support IDPs in accessing public services, humanitarian assistance programmes or the justice system itself (see Part V.10). 

Legal assistance programmes can also contribute to building a protection environment conducive to finding durable solutions. For example, by resolving property disputes, IDPs may be able to return to their area of origin (see Part VI). 

In general, when designing legal assistance programmes, it may be useful to pursue a local remedy under alternative dispute mechanisms, if these exist. Confidentiality and informed consent should form the basis of all programmes.

2. Key types of legal assistance programmes for IDPs

2.1. Legal Information Programmes

Legal information programmes seek to familiarize IDPs with existing formal legal systems (regulations, laws and customs regulating civil/administrative, criminal and human rights matters), particularly as they relate to their displacement (see Part IV.6). 

Through legal information programmes, one may:

- Set up legal information offices or mobile clinics in displaced communities;
- Facilitate communication between IDP communities to overcome legal barriers, particularly if one community has had prior success;
- Publish reports on issues relating to the rights of IDPs;
- Create and support information networks of national partners, including public officials, institutions, lawyers, NGOs, and community elders to ensure understanding of their duties vis-à-vis IDPs;
- Collect and distribute information on precedent-setting cases, new procedures, state programmes specifically benefiting IDPs, etc.; and
- Conduct mass information campaigns using radio, TV, press, newsletters, posters, or leaflets to distribute important information to displaced communities.

2.2. Legal Counselling

Legal counselling programmes seek to advise IDPs on their legal options to address a specific rights violation or to claim a legal entitlement. Such programmes can provide individual


¹ This chapter is largely based on and takes excerpts from the Handbook on Information, Counselling, Legal Assistance (ICLA), Norwegian Refugee Council, 2004 edition.

counselling through mobile units or in permanent centres. While some programmes specifically target services to relevant minority or sub-groups with specific needs within the IDP population, in some circumstances, broader meetings with IDP and host community populations may be appropriate to address certain legal issues. The primary functions of a legal counsellor would be to:

- Provide individual advice to displaced persons by listening to the situation, explaining the situation in legal terms, and discussing potential legal mechanisms to address the problem;
- Explain potential benefits and risks associated with various options, and provide guidance about the best method to address challenges;
- Clarify incorrect information that may be circulating in the community.

2.3. Legal Aid Programmes

Legal aid programmes provide direct support to IDPs to overcome legal obstacles, access entitlements, obtain redress for rights violations and resolve disputes through appropriate channels. When providing legal assistance, one may:

- Act as legal counsel for the displaced person/s in relevant administrative procedures. Administrative procedures are commonly used to address cases involving human rights, property restitution or land tenure rights, documentation required for citizenship or identity documentation, or social benefits such as employment or pension rights.
- File legal complaints with courts and provide in-court representation through staff or outside counsel. Legal representation may be particularly useful in cases of neglect, deliberate obstruction of justice, or unlawful actions such as arbitrary arrest or detention.
- Exercise power of attorney or accompany client/s to gather documents from public offices or documentation centres in the area of displacement or in the IDP's area of origin.
- Prepare and file “test cases” in domestic, regional and international courts and human rights bodies² on behalf of IDP clients (*see also Part I.2*). 
- Assist clients with the submission of cases, representation and mediation in ‘informal’, ‘traditional’ or ‘tribal’ justice mechanisms.

2.4. Related activities

2.4.1 Capacity Building activities can: (*see Part IV.4*)


- Strengthen the knowledge of national and local governmental actors about their obligation to respect, protect and fulfill the rights of IDPs in a manner consistent with international law.
- Provide technical assistance and advice on legislation, implementation regulations and procedures.
- Give financial support to start legal/administrative proceedings (i.e. legal services, administrative fees, expenses or ‘incentives’ that may be necessary to broaden legal aid programs to IDPs).
- Strengthen local organizations’ capacity and skills to assist IDPs and promote respect for their human rights.


² This includes taking cases to international courts such as the European Court of Human Rights in Strasbourg, international treaty bodies such as the United Nations Human Rights Council in Geneva, or UN committees guarding treaties like Minority Rights, Elimination of all Racial Discrimination and the Committee on Economic and Social Rights.

2.4.2 Advocacy (see Part IV.3)

Based on understanding of individual cases, advocacy campaigns can be launched for the protection of particular rights of the displaced. Experience has shown that specific and actual case-based advocacy programmes have greater impact and stronger credibility. Given the sensitivity of many IDP rights-related issues, advocacy campaigns should be discussed, agreed upon and supported throughout the relevant organization.

3. Key considerations for effective legal assistance programmes

<p>Assessing the feasibility and sustainability of a project</p>	<p>A legal assistance programme is generally considered feasible if:</p> <ul style="list-style-type: none"> • Personnel and financial resources are available. • The security situation allows the relevant organization to operate in reasonable security. • The organization has access to the affected population/target groups, noting that if access is limited, mobile units and other alternatives can be considered. • If the activities have a reasonable chance of improving the situation of the target group. <p>The project is sustainable if:</p> <ul style="list-style-type: none"> • Once the relevant organization departs, there is local capacity to continue providing the same kind of service, if needed. • The project has built-in knowledge and skill transfer mechanisms to local communities, government authorities and the staff members themselves.
<p>Strategically combining different types of legal assistance projects</p>	<ul style="list-style-type: none"> • Establish credibility and acceptance before taking on individual case work. As the situation improves and possibilities for seeking legal remedies develop, the project can initiate concrete legal actions to solve legal problems of individuals. • Determine the right mix and type of information, counselling and assistance activities. This is a challenging balancing act. In particular, organizations must choose between: <ul style="list-style-type: none"> – Providing more individual counselling versus disseminating information to groups; – Providing legal assistance to many people versus prioritizing a test case for the courts; or – Concentrating on an “easy” issue where a solution is likely (e.g. obtaining documents) versus systemic issues which take longer to change (e.g. discrimination in the courts). • The choice for one or another type of programme will depend on the potential positive impact on IDPs of particular activities. Generally, legal aid programmes should combine information and counselling, as both are integral to successful legal interventions. • In conflict and immediate post-conflict situations, legal assistance activities often target a large number of clients and focus on providing general information in the absence of legal and civil infrastructure to pursue individual cases. • If individual cases become repetitive, this may indicate a systemic problem with a particular law or institution; in such cases,  information and advocacy campaigns may be useful (see Parts IV.3 and IV.6). • If solutions to individual claims are achieved, legal information and training programmes can contribute to enable broader groups also benefit from the same solution or strategy to address the problem. ➔

	<ul style="list-style-type: none"> • In some situations it may be more appropriate to seek a remedy within an alternative dispute mechanism as opposed to formal legal mechanisms. As long as such remedies are in accordance with international human rights law and principles, they can be applied either as an interim measure, or in a manner that complements the existing official system (see Part V.9). 
<p>Coordination with other programmes and actors</p>	<ul style="list-style-type: none"> • All agencies involved in protection, assistance and legal aid activities should work in a collaborative and concerted way to minimize overlap and to fill gaps. For example, if return becomes a durable solution for a large number of IDPs, information and counselling on land tenure, compensation or restitution could be key components in a shelter program. • IDPs and other actors' perceptions of the credibility of organizations providing legal assistance should also be monitored. Staff involved in legal aid projects should clearly set realistic expectations by stating how their organization can and cannot assist internally displaced persons.
<p>Managing information</p>	<ul style="list-style-type: none"> • Protecting the confidentiality of personal information and obtaining informed consent to share such information is essential to build trust and confidence and to ensure that affected populations are not put at risk. • Information used in legal aid projects must be reliable and accurate, which means that it must be verified and updated. This can be particularly difficult during conflict or in post-conflict situations, when things change quickly and transparency is often lacking. • While electronic recordkeeping, such as databases, can support assessment, monitoring and analysis, it is essential that all mechanisms safeguard confidentiality. Such information should also be cross-checked whenever possible, and evaluated in light of its source. • A system to refer potential clients or issues to specialized organizations should be established, both on a case-by-case basis and thematically. • A thematic compilation of good practices and relevant jurisprudence can also strengthen legal advice actions. • <i>Standard operating procedures</i> should be developed and disseminated to ensure access to legal redress or/and specialized legal assistance for different protection risks (i.e. for land, housing and property restitution cases; SGBV; documentation procedures, etc.).
<p>Staffing the projects</p>	<ul style="list-style-type: none"> • Recruiting local staff contributes to the sustainability of programmes, the development of local capacities, and a greater understanding of the local legal system. • When hiring local lawyers one should seek to avoid weakening state institutions by depleting local capacity. • Where appropriate, strike a balance between recruiting newly graduated lawyers and experienced local lawyers: while experienced lawyers may bring credibility and legitimacy to the project and facilitate dialogue with key actors, it is also important to expose a new generation of lawyers to the principles of human rights law to carry with them throughout their professional life. • Where possible, hiring practices should also aim to an appropriate ethnic and gender balance among national staff, taking into account political, cultural and any other possible sensitivities in the country or region.



Developing soft skills (see Part II.)



- Noting that many IDPs and affected populations seeking advice may have been traumatized by a conflict situation, all staff members need to develop basic knowledge of the symptoms of trauma, as well as general counselling techniques.
- Legal aid workers should also be equipped to deal with the personal stress that can result from being exposed to accounts of rights violations and trauma.
- All staff in legal assistance programmes should be aware of the limitations of their competencies when it comes to an IDP's need for professional psychological and medical counselling.
- Some basic tips:
 - Never turn anyone away. If approached by someone outside the target group, politely redirect the person to other organizations that may be of assistance.
 - Focus on key issues with clear and simple questions.
 - Be prepared and always answer questions accurately, even if it requires follow-up or research.
 - Provide comprehensive information, encouraging clients to ask follow-up questions. Many may not be aware of the information they need to know.
 - If needed, spread discussions over several meetings. It is not necessary to bring everything up in the first consultation.
 - Try to reach IDP sub-groups at high risk or those most in need of information and counselling.
 - Do not attempt to be *superhuman*. Even counsellors are allowed to admit that an issue is difficult to handle. If your organization does not have the capacity to answer a specific issue, contact a network colleague for advice, ensuring the query does not compromise confidentiality.



Resources

- *Information, Counselling, Legal Assistance (ICLA)*, Norwegian Refugee Council, 2004 edition.
- “*National Human Rights Institutions and Internally Displaced Persons: Illustrated by the Sri Lankan Experience*” Brookings Institution-SAIS Project on Internal Displacement, (by Gomez, Mario), July 2002.
- “*Housing and Property Restitution for Refugees and Displaced Persons, Implementing the Pinheiro Principles*”, FAO, IDMC, OCHA, OHCHR, UN-HABITAT, UNHCR, 2007.
- “*Property restitution in practice: The Norwegian Refugee Council's experiences*”, (by NRC, Ingunn Sofie Aursnes, and Conor Foley), April 2005.
- “*Implementation of the 1998 UN Guiding Principles on Internal Displacement in Domestic Law and Policy: Study on the Recovery of Personal Documentation*”, NRC, (by Conor Foley, Paul Nesse, Barbara McCallin), 28 February 2007; to appear in a forthcoming joint publication on domestic laws and policies on internal displacement by the Brookings Institution-University of Bern Project on Internal Displacement and the American Society of International Law.



Useful websites:

- Norwegian Refugee Council (NRC): www.nrc.no
- Internal Displacement Monitoring Centre (IDMC): www.internal-displacement.org
- Brookings Institution SAIS Project on Internal Displacement: www.brookings.edu
- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org
- Reliefweb (OCHA): www.reliefweb.int

Guidance Note 6

Disseminating information

1. The protection value of access to information

The right to seek, receive and impart information is a basic human right. It also has considerable protection value. Access to accurate, reliable and timely information helps individuals and communities to make sound decisions, develop sustainable survival strategies, and seek a durable solution to displacement. It also helps to safeguard against manipulation and abuse.

Displaced individuals and communities often lack or have limited access to timely and accurate information. Ensuring their right to information and, in some cases, providing relevant information, can support the efforts and strengthen the capacity of individuals and communities to protect themselves.

Ensuring access to and/or providing information in situations of internal displacement can be challenging, in particular where displacement has been motivated by political factors. Such efforts must be undertaken with care in order to avoid creating tensions or placing individuals and communities or humanitarian actors at risk.

2. Possible means for disseminating information

Information can be conveyed and exchanged through a variety of means. The choice will depend on a number of factors, such as the nature of the information, the source, the target audience and the socio-economic and cultural environment.

2.1. Among IDPs and other affected communities

- Individual counselling, household visits
- Group meetings; support groups; group counselling; information, awareness-raising, sensitization campaigns
- Community representatives and other multipliers, such as community associations/centres, churches, health staff, humanitarian assistance delivery sites
- Programme-related activities, including education (parents meetings and classroom dissemination) and health care (waiting rooms, vaccination campaigns)
- Family tracing and messaging services, such as established by ICRC
- Media: radio/TV/newspapers, public broadcasts
- Cultural and artistic performances
- Posters, leaflets and newsletters
- Audio tapes, videos or films

2.2. With governments and other institutional partners

- Bilateral and multilateral meetings and briefings
- Standard reporting mechanisms, such as situation reports
- Contingency planning, programmes and agendas
- Workshops and seminars
- Humanitarian hubs for humanitarian information-exchanges and networking

- Web dissemination, such as OCHA website of compiled reports; Reliefweb; virtual communities of practice, databases, maps
- Networks of national partners
- Networks and regular venues for local and international agencies and other actors
- Official media, including radio, TV, newspapers
- Specialized/targeted newsletters

3. Key activities

Disseminating information for use as a protection tool will entail¹:

- Determining what concrete information is needed by different stakeholders and for which purposes;
- Selecting the appropriate timing and dissemination channels for the different stakeholders; and
- Avoiding doing harm through information-dissemination activities.

Annex 1 contains a checklist with useful questions to ask when developing an effective and protection-oriented strategy to disseminate information.

How we can protect through accessing and disseminating information

3.1 Information that protects


Preventing or mitigating the effects of arbitrary displacement

- Facilitate sharing of knowledge and information on the dynamics of conflict and the security situation in relevant areas, including on the presence of mines. It may help groups and individuals without regular access to such information save their lives by fleeing elsewhere or taking other protection measures.
- Keep in mind that information related to security, in particular if related to military operations, such as movements of troops, can be extremely sensitive and it should be handled with extreme caution (see *Part II on military-civilian coord.*) 📖
- Encourage the government to share information with the civilian population about its relocation plans, and other decisions that affect them. This will allow the population to adapt their own protection strategies. In these cases:
 - Support information-sharing between the authorities and the population by initiating meetings between them, if required.
 - If a party is unwilling to share vital information with the population, raise this issue with the highest local or central political authority, as determined by the Country Team.
 - Take into account possible implications of such situations on staff safety.
- Inform IDPs and other affected communities about the duty of national authorities to protect and assist them without any discrimination.
- Disseminate information about the location of transit centres or points of delivery of humanitarian assistance to avoid dangerous secondary displacements and enable prompt access to relief.
- Ensure that IDPs and other affected populations understand their right to seek asylum abroad.


Improving protection and enjoyment of rights during displacement

- Dispel rumours by providing objective and accurate information and, if possible, access to reliable sources of information.
- Discuss and plan with affected communities, information campaigns on protection risks that may affect particular individuals or groups. This can facilitate the timely adoption of specific measures to prevent such risks and to access relief and redress mechanisms quickly when such risks arise. For example: ➡

¹ For guidance on sources, methods and standards for gathering, protecting and evaluating the reliability of information, see Part IV Guidance Note 1 on Monitoring and Reporting, and Guidance Note 8 on IDP Profiling.

	<ul style="list-style-type: none"> - Women, girls and boys at risk of sexual exploitation, forced prostitution, or abuse: the community should be informed of the equal rights of women and girls to access national and international protection and assistance efforts; the fact that humanitarian assistance is provided free of charge; equal rights to participation; the methods used by trafficking networks; and national institutions responsible for the care and protection of victims of trafficking and exploitation and for preventing and responding to such abuses; - Men, children, adolescents at risk of forced recruitment or forced labour: the community should be informed of organizations or national institutions mandated to protect against forced recruitment or forced labour, the existing legal framework, and legal aid projects focusing on this issue. • Provide information on the availability of legal aid projects or information centres, and on existing procedures for issuing replacement identity documents, procedures for land, housing and property restitution, and support for family reunification. • Raise the profile of national and international assistance and distribution programmes and eligibility criteria for housing, food, water, sanitation, medical care, education and work opportunities or commercial activity in local markets.
<p>Facilitating or promoting durable solutions (see Part VI)</p> 	<ul style="list-style-type: none"> • Ensure that all internally displaced persons are aware of the principle of voluntary return and the right to settle in another part of the country. • Provide information on the situation in areas of return/settlement elsewhere, including security, availability of assistance, availability of food, housing, water, work, pension and social benefits, health and education, the state of infrastructure, the condition of housing, and land and property ownership and use. • Assess and inform the displaced populations of conditions of travel along transit routes (the presence of mines, water sources and medical centres) to the areas of return or resettlement. • Disseminate information among affected populations on the right to vote, participate in community/public/government affairs, and freedom of association, religion, thought and conscience – all without being subject to discrimination.
<p>3.2 Avoiding harm</p>	
<p>Averting misinformation</p>	<ul style="list-style-type: none"> • Assess the accuracy and reliability of information received. This may require research, analysis and cross-checking of information from various sources. • Remain aware of politicized media or interlocutors, particularly in conflict situations.
<p>Managing sensitive information</p>	<ul style="list-style-type: none"> • Before sharing sensitive information with communities at risk or local authorities, always undertake a thorough appraisal of the potential impact of your action on the protection of individuals or groups among the civilian population and humanitarian staff. • Only share sensitive information if it helps protect persons of concern. No risk should be taken that could expose individuals. • Build in adequate procedural and substantive safeguards, particularly with regard to confidential data and protection of sources, when developing information-gathering and -sharing methods.
<p>Avoiding concentration of information</p>	<ul style="list-style-type: none"> • Ensure that information reaches persons of different ages, sexes and interests. Even though it could seem more expeditious to rely on a few persons or structures in the community to transmit information, such as IDP leaders, adults, men, seek a diversity of multipliers.



- Spend substantial time in communities of concern in order to have access to different groups and individuals, broaden possibilities of dissemination, and identify further information needs.
- Make efforts to reach remote or dispersed IDPs and affected communities, including IDPs in urban settings or living in areas that are inaccessible to humanitarian workers.
- The timing and location chosen for disseminating information must be reconciled with family and work obligations, and with access to transportation.
- Adapt the content and modalities of information to individuals of different ages, sexes and backgrounds and any group with specific needs. These can be individuals with physical conditions that limit their mobility as well as children, minority groups, and single-headed households. For example:
 - **Women IDPs (often including teenage girls):** Not only should women have access to information on an equal basis as men, but they might also require specific types of information, such as information relating to mine action; rather than focusing only on the main roads, which might be most useful for male IDPs, focus also on the areas where women collect firewood, grow crops, fetch water, and wash clothes.
 - **Children and youth** must be kept informed, (through their relatives, communities, teachers or others), on decisions that may affect them or are made on their behalf. In particular, they must be consulted and informed about alternative living arrangements and tracing activities available to them. It is essential to adapt the method of dissemination to the age, gender and backgrounds of children so that they understand key messages (see Part II.3). 

Socio-cultural awareness

- Ensure that the location or method chosen for disseminating information does not stigmatize or otherwise deter persons from accessing the information:
 - Information regarding domestic violence may be disseminated discreetly at medical clinics, day-care centres, and training events.
 - Information and assistance for HIV/AIDS patients and survivors of gender-based violence is best provided in a manner and place where persons are not afraid of being identified. Mobile information and counselling clinics are often useful.
 - Messages should be worded in culturally appropriate terms. Be aware of the potential misunderstandings caused by “word-by-word” translations.
- Remain aware of how the specific age, sex and political, ethnic or religious affiliations of national colleagues, interpreters or local partners can influence the receptivity of IDPs to the information provided.



Resources

- *Humanitarian Disasters and Information Rights: Legal and Ethical Standards on Freedom of Expression in the Context of Disaster Response*, Article 19, 2005. www.article19.org
- *Operational Protection in Camps and Settlements: A Reference Guide of Good Practices in the Protection of Refugees and Other Persons of Concern*. UNHCR, 2006 (Chapter 4 on Information Dissemination). www.refworld.org
- *Left to their Own Devices: The Impact of Informal Informational and Communication Networks on Security in Tanzanian Refugee Camps*, A.R. West and L.W. Wambugu, Article 19, 2003. www.article19.org

Annex 1

Checklist for Information Dissemination

- What information is needed by IDPs and other affected populations at this stage?
- What will be the protection impact of this information?
- Who should transmit this information to them? Is it the task of humanitarian actors, or should you encourage and support local authorities to do so? Will this choice affect the target audience's perception of neutrality and impartiality of humanitarian actors?
- How will IDPs and other affected communities help design the dissemination strategy?
- How will NGOs and other partners be involved to ensure clear and consistent messages and to avoid overlap of efforts and resources?
- Which channels will be used to disseminate the information? Are they the most appropriate to ensure the safety and avoid stigmatization of the targeted audience?
- How will the dissemination of information be made sustainable and not remain a one-off exercise?
- How will the strategy ensure that the information reaches those with specific needs or those most marginalized within the IDP community?
- How will the illiterate be informed?
- Is the information being shared reliable?
- Is it culturally appropriate?
- Are the messages delivered in a respectful, unequivocal and non-patronizing manner?
- Can the audience provide feedback to those disseminating the information?
- What media sources will be engaged: radio, print, posters, megaphones, teachers, community leaders?
- How will the host community be engaged? Would it be helpful to conduct an information campaign to raise awareness of the challenges and risks faced by IDPs?


Guidance Note 7

Humanitarian Assistance


1. The protection value of humanitarian assistance

Generally, humanitarian assistance consists of providing relief services or commodities either directly or indirectly via the supply of advice or resources through a local authority or partner organization.¹

Humanitarian assistance has a wide **protection capacity** as its aim is to address the urgent needs of the target populations, thereby improving their human rights situation. Yet, if the planning and delivery of humanitarian assistance are not guided by protection objectives and basic principles, the safety and dignity of civilian populations can be put at serious risk and the humanitarian character of assistance can be undermined. **Conscientiously planning and delivering humanitarian assistance through a *protection lens***² can greatly expand its protection capacity.


Humanitarian assistance can also be a determining factor in the **search for durable solutions**. For example, adequate and timely humanitarian assistance during displacement can help displaced persons regain the ability to develop sustainable livelihoods and thereby prepare them for reaching earlier solutions. A well-balanced assistance programme can also avoid dangerous secondary displacements to unsafe locations and contribute to the development of conditions for return or relocation (see *Part VI on Durable Solutions*). 

National governments are responsible for the protection and assistance of internally displaced persons. Humanitarian actors should therefore try to avoid acting as substitutes for national authorities. While life-sustaining essentials should always be provided if the State is not doing so, humanitarian agencies must orient longer-term interventions towards reinforcing the capacity and the responsibility of national authorities to assist the population on their territory. This includes advocating that national policies, public services and targeted assistance programmes adequately respond to protection needs.

Humanitarian actors should also ensure that assistance ultimately strengthens the ability of internally displaced and other affected communities to realize their rights and of civil society groups to support them to that end (see *Parts IV.4 and IV.10*). 

2. Key protection considerations on humanitarian assistance

2.1 Core Humanitarian Principles⁴: *Humanity, Impartiality, Independence*

Humanitarian assistance must be provided in accordance with the principles of humanity, impartiality and independence⁵ (see *Part I.1*).  In simple terms, this means that:⁶

¹ Adapted from *A Guide for Humanitarian Agencies*, Slim, H., and Bonwick, A., August 2005.

² See section II of this Chapter.

³ References to humanitarian assistance in this Guidance Note include those life-sustaining essentials that States and humanitarian actors provide to displaced populations, such as clothes, bedding materials, cooking items, etc. The overall protection considerations on humanitarian assistance contained in this Chapter, however, also apply to the provision of shelter, water and sanitation as well as food distribution, all of which are also dealt with in more detail in other chapters of the Handbook.

⁴ See Guiding Principle 24.1. The Guiding Principles are reproduced in Annex 1 at the end of this Handbook.

⁵ GA Resolution 46/182, 19 December 1991, Strengthening of the coordination of humanitarian emergency assistance of the United Nations.

⁶ See also *ICRC neutrality and impartiality in humanitarian assistance*, Denise Plattner, International Review of the Red Cross.

- Humanitarian assistance must be provided to prevent and alleviate human suffering, to protect life and health and to ensure respect for the human being.
- The criteria for distribution of humanitarian assistance must not be based on nationality, race, religion, or political point of view. It must be based on need alone.
- Humanitarian agencies must formulate and implement their own policies independently of government policies or actions.

Even if these principles are sometimes difficult to apply, especially in rapidly changing situations, they are unambiguous. Their application ensures the integrity of relief operations and it contributes to safeguard the safety of the assisted populations and of humanitarian staff.

These principles should guide a continued assessment of the potential consequences of humanitarian action which, at times, may lead to the conclusion that assistance should NOT be provided. This may be the case in situations in which humanitarian access might be denied in one location while strategically permitted in another, leading to a worsening of inter-communal tension or discrimination; reductions in food rations to an IDP settlement used to force relocation or premature return; pressure to establish assistance points in certain strategic locations to reclaim control over a territory use IDPs as human shields, or to control population movements for other political or military purposes in violation of the rights of IDPs.

The application of the principles of humanity and impartiality will also make it necessary for humanitarian actors to carefully consider if and when an assistance project initially planned for internally displaced persons needs to be substantially expanded to other groups or to the civilian population as a whole.

2.2 Balanced Interventions


Protection and assistance activities by the different humanitarian partners should all be part of one coordinated strategy. All humanitarian partners must have a common commitment so that both humanitarian assistance and generic protection interventions, (such as monitoring and reporting or following up on human rights violations), can take place at the same time without undermining each other.

This can be particularly necessary, for instance, in situations where public denunciation or advocacy reports, become necessary at one point to raise awareness about grave and systematic human rights violations against a particular group or the population as a whole. In such cases, it is essential that ALL humanitarian partners, UN and NGOs, agree on a common advocacy approach and operational strategy. The fact that open denunciation may put at risk humanitarian assistance or access altogether requires a solid unanimous approach from the country team, otherwise threatening the safety of staff and the integrity of humanitarian interventions (*see also Part IV.2 on humanitarian access and presence*). 📖

A balanced approach also requires all humanitarian actors to orient their programmes towards the achievement of durable solutions. From the beginning of an emergency and through the implementation of their programmes, they should work in coordination and partnership with development and early recovery partners.

2.3 Security

Humanitarian interventions could inadvertently aggravate or create risks for the target population and/or surrounding communities. The presence of humanitarian actors, the location of warehouses with food and non-food items as well as the chosen assistance modalities can increase the risk to affected communities, for example by drawing unwanted attention to assisted communities from armed groups or agents of persecution.

Armed actors may systematically infiltrate and use civilian IDP settings as a convenient base to supplement their rations, putting civilians at great risk. Constant monitoring activities in this regard are therefore indispensable (see Part II.3). 

2.4 Integrity and accountability

Humanitarian assistance programmes need to be accompanied by scrupulous monitoring systems to identify and prevent corruption in aid-distribution systems and avoid a spiral of extortion rendering IDPs defenceless. All efforts should be made to prevent the diversion of assistance to combatants during conflict. Humanitarian personnel taking part in assistance activities must be well aware of the practical implications of the core humanitarian principles as well as of their respective codes of conduct and the consequences of breaching them.

3. Ensuring a protective approach to planning and delivering humanitarian assistance

To maximize the potential protection value and benefits of humanitarian assistance, it is vital to ensure that **protection concerns are mainstreamed** into the planning and programming cycle of any humanitarian assistance programme. The following matrix suggests ways in which we can accomplish that:

3.1. Assessing needs for assistance with a protection perspective (see Part III.1)


- Ensure that non-protection staff taking part in assessments is adequately trained on the protection implications, the risks as well as the protection potential of humanitarian assistance.
- Try to reach, a shared perspective of key protection gaps and objectives with all protection and non-protection partners. To this end, *joint* situational assessments are useful to identify the full spectrum of protection concerns affecting persons of concern.
- At the peak of emergencies, ensure that rapid assessments are systematically undertaken from a gender, age and diversity perspective and that they include some degree of participatory inquiry, even if limited. This will help set up an adequate procurement and delivery process during the initial planning stages of assistance programmes, to respond to the needs of women, men, girls and boys of different ages, sex and circumstances.
- Do not make assumptions about family size or structure. In emergencies, families are not always made up of two parents with several children. Often, households are headed by one parent or a grandparent with children and cousins. Ensure that members of the new family unit are not put at additional risk by not receiving adequate assistance.
- Through participatory assessment during the post-emergency phase try to understand community dynamics and other relevant factors, such as gender roles, traditional practices, discriminatory laws or customs, and common patterns of abuse that may affect the delivery of assistance to some individuals or groups. This will ensure that humanitarian assistance reaches those in the community who are not as visible to the humanitarian agencies.
- Establish any assistance needs that are specific to the cultural and daily practices in affected communities, such as cooking practices and fuel sources before the displacement; type of clothes that women and men used to wear, including any specific clothing items essential for their daily needs; hygiene products used or needed; and how were single-headed households surviving or accessing non-food items before.
- Establish whether there are smaller groups or families remaining **outside camps or settlements**, or those who are not able to flee as far as camps, such as older persons. Ensure that they also receive humanitarian assistance on a continued basis.



3.2. Planning and delivering assistance with a protection perspective (see Part III.2)

- **Integrate lessons learned:** before deciding on specific assistance modalities, seek lessons-learned about humanitarian assistance programmes in other operations with comparable protection risks and patterns of displacement.
- **Promote dignified settlement opportunities:** assistance delivery programmes should avoid creating a pull factor towards encampment if other viable alternatives exist, such as staying with host families.
- **Carefully consider the root causes of conflict:** ensure that the analysis of the root causes of conflict is integrated in the definition of assistance priorities and modalities, to prevent unnecessary tension and to foster coexistence through the delivery of assistance. (For instance, if unequal access to water for cultivation was among the root causes of conflict, humanitarian actors should prioritize access to water in communities receiving displaced populations).
- **Strengthen national responsibility:** make every effort to develop assistance programmes that strengthen existing local and national services or policies, particularly with a view to durable solutions. For instance:
 - Design nutritional centres, schools and sanitation services that can be integrated in the national system, as soon as the State is ready to assume its responsibility.
 - If the issuance of personal documentation is required to facilitate distribution and prevent abuse, avoid developing a parallel documentation system to that of the State. Rather, support, directly or through partnerships with specialized agencies, the ability of the State to provide affected populations with identity documents. Apart from facilitating the relevant distributions, this may also facilitate accessing other rights (see Part V.2). 
- **Avoid dependency on assistance:** plans for assistance delivery should promote a balance between assistance and livelihoods through coordination between protection and early-recovery agencies. Such cooperation should also serve to improve the conditions in areas of return or settlement. For instance, procurement and delivery of assistance can be oriented towards promoting local products and supporting local employment. Vocational training on traditional and new crafts using local materials, will allow for the sustainable manufacture of goods and to get access to local markets.
- **Build on the community's self-protection strategies:** older persons are often crucial interlocutors to understand these strategies, due to their understanding of the existing threats and their knowledge of the community. Such situations could be:
 - In some cases, being identified as IDPs or being spotted receiving humanitarian assistance can put displaced persons in life-threatening situations. This can be the case of displaced individuals or groups in areas where they constitute an ethnic minority and where there is a lack of governance or effective security apparatus (such as areas in Somalia or in Iraq). Special distribution systems of basic subsistence items must be developed on the basis of thorough consultation and joint planning with the community. Such systems usually involve complex and lengthy distribution procedures, yet they can save lives.
 - Some displaced communities may need to limit their movements to avoid security risks and assistance should be planned to help them avoiding such risks. For example, if members of a displaced community risk being attacked by collecting firewood in remote areas, humanitarian assistance programmes should prioritize the provision of energy-saving cooking stoves or alternative fuels to reduce the need for such movements.
 - In some cases, provision of cash grants could trigger attacks against particular segments of the population which may be perceived as vulnerable or defenceless, such as older persons, widows, etc.
 - Conversely, a project for clothes distribution that prioritizes families with special needs can improve the situation of separated children in foster care, as it may broaden opportunities for monitoring the situation of children, identify further needs, and establish referral mechanisms for identified children with additional needs.



- **Take into consideration culture and climate:** ensure that assistance distributed (clothes, bedding materials, cooking items) is appropriate to cultural practices and climatic conditions. Ensure that it is sufficient in quantity and that it enables safe practices. To the extent possible ensure that existing local practices are taken into account.
- **Be identifiable and accessible:** humanitarian partners should be easily identifiable through visibility signs and regular presence during distribution exercises. Their offices should be accessible to local authorities, IDP leaders and individuals wishing to discuss assistance-related matters.
- **Ensure that assistance does not divide the community:** objective criteria for assistance based on specific needs should be set together with representatives of the community and broadly disseminated. Discuss with those parts of the community, including the other affected communities, who may feel negatively affected and explain the principles of humanity and impartiality of humanitarian assistance in clear and unambiguous terms. It is vital to promote cohesion within the community so that it retains its ability to develop common protection strategies.
- **Build on the key role of women in their families:** work with other partners and the community to ensure that they acknowledge the key role of women in the health and well-being of their families. Ensure that all support that role by ensuring women's equitable access to assistance. Such access will be ensured by women receiving the commodities directly or together with their partners or other relatives.
- **Take into account specific needs:** ensure that assistance programmes organized around distribution points or areas, also foresee alternative arrangements to reach persons who may not be able to attend, such as:
 - Older persons and persons with disabilities, who may not be mobile at all.
 - Women taking care of many dependants on their own who may have restricted mobility and little time for participation in community affairs, including general distributions.
 - Women and adolescents who may fear attending meetings or distributions on their own for security reasons, including gender-based violence from members of their own or surrounding communities, or from armed elements.
- **Avoid exposing the community to attacks:** the type and amount of assistance provided on each occasion may attract attacks by armed actors. Infrequent distributions of large quantities of assistance are more likely to draw attacks than providing smaller quantities at more frequent intervals. Leaving vehicles and other equipment at settlements or sites over night or during longer periods can also expose the community to insecurity.
- **Ensure that all members of the community are well informed:** make sure that both women and men know well in advance the quantity / variety of items they should receive, as well as the how the distribution method is supposed to work. Ensure that they are continuously informed on any changes in the system or the quantities of assistance. Use public information and notice information boards clearly indicating entitlements to non-food items and distribution sites, day and time. Take into account different levels of literacy in selecting methods for information dissemination (see Part IV.6). 
- **Plan for orderly and safe distributions:** in cases of large-scale distribution, work with the community to designate crowd controllers who can monitor queues, and provide a separate queue for persons and groups with specific needs (such as those not able to stand in line for various reasons, e.g. older persons, pregnant women or persons with disabilities). Clearly designate the person at each site who will be responsible for security decisions, for ordering evacuation and/or abandonment of supplies. That person should be known to all staff and be visible.
- **Deal quickly and fairly with cases of cheating and disorder:** tackling corruption can put staff and the relevant organization at risk. Ensure that staff responsible for control and management is experienced and qualified. Ensure transparency and accountability in contracting and recruitment of staff for distribution of assistance.



- **Support durable solutions:** where the general conditions of return are given and displaced persons have started to return or expressed their willingness to do so, assistance delivery points should be close to areas of origin to facilitate voluntary return and reintegration of the displaced communities. The same should apply to relocations.

3.3. Evaluating and monitoring the protection impact (see Part III.3)

- Work with all partners for the adoption of concrete measures to avoid abusive distribution systems, such as warehouse monitoring and post-distribution household surveys.
- Ensure that monitoring of assistance distribution is done both by agency staff and representatives of the affected communities.
- Enable beneficiaries to transmit their concerns and suggestions regarding the quality of assistance or its modalities. Hold regular discussions with community members on the distribution mechanisms and make modifications wherever feasible. Irregularities in the distribution cycle undermine the confidence of the affected community and increase the need to circumvent the system.
- Work together with humanitarian actors in the different sectors to ensure that their programme evaluation and monitoring activities measure not only performance levels, that is, the quantities of material distributed, but also their protection impact, such as:
 - The ability of such programmes to promote dignity and self-reliance of persons of concern and the community or whether they are reinforcing dependency and risk prolonging displacement.
 - The different impact of assistance on persons of different ages, sex and backgrounds, particularly those who are less visible or unrepresented, including in terms of equality, non-discrimination, appropriateness to cover their specific needs and any changes required.
 - Whether targeted assistance related to sensitive issues inadvertently identifies and places individuals at risk of stigmatization or physical harm, such as targeted assistance to HIV-AIDS patients or GBV survivors.⁷
 - Any other undesired effect, either on those receiving assistance, their relatives, surrounding populations or the relationship between different communities.
- Set up suggestion and complaint-boxes along the areas of displacement. Conduct regular random visits to households and displacement sites to get first-hand information about the impact of assistance should be conducted regularly.
- Ensure that ongoing evaluations of humanitarian assistance programmes develop and use 'protection impact' indicators linked to the objectives set by the Protection Cluster/Sector.



Resources

- *Beyond Firewood: Fuel Alternatives and Protection Strategies for Displaced Women and Girls*, Women's Commission for Refugee Women and Children, March 2006.
- *Making Protection a Priority: Integrating Protection and Humanitarian Assistance*, paper from Inter Action's Protection Working Group, April 2004.
- *Commodity Distribution*, UNHCR Division of Operational Support, June 1997.
- *Different Needs – Equal Opportunities, Gender and Non-Food Items in Emergencies*, IASC Gender Handbook.
- *Humanitarian Charter and Minimum Standards in Disaster Response*, Chapter 4, Minimum Standards in Shelter, Settlement and Non-Food Items, by Sphere Project, 2004.
- *Camp Management Toolkit*, Norwegian Refugee Council Camp Management Project, Oslo, 2004.
- *Growing the Sheltering Tree: Protecting Rights Through Humanitarian Action*, Inter-Agency Standing Committee, Geneva, 2002.
- *Protection: An ALNAP Guide for Humanitarian Agencies*, Slim, H., and Bonwick, A., Overseas Development Institute, London, 2005.

⁷ "Gender-based Violence in Colombia: WFP Field Study" (23 April-6 May 2006), WFP draft report, p. 16.

Guidance Note 8


Profiling Internally Displaced Persons

1. What is profiling?

Profiling internally displaced persons is a collaborative process whereby data on individuals or groups who have been internally displaced is collected, with the purpose of informing advocacy on their behalf, improving protection and assistance interventions and, ultimately, finding a durable solution to displacement.

For more comprehensive guidance on profiling see ‘**Guidance on Profiling of Internally Displaced Persons**’ (forthcoming 2008).

The level of detail gathered through profiling will vary depending on the context. At a minimum, core data includes the number of IDPs disaggregated by age and sex,¹ and their location(s). But IDP profiling is not just about numbers. Additional information may include, but is not limited to: cause(s) of displacement; patterns of displacement; protection concerns; key humanitarian needs; and possible solutions for the group or individual.

Profiling may overlap with but is different from **needs assessment**, which is intended to gather and analyze a wide variety of data in order to get a **comprehensive overview of humanitarian needs and protection concerns** (see *Part III.1*). Profiling is primarily intended to identify the number and location of IDPs among other population groups, although information about urgent needs can be gathered as well. Profiling and needs assessments are different but complementary exercises that can be carried out in tandem, if appropriate and desired.

Internally displaced persons are entitled to the same rights as other citizens or habitual residents of their country. Profiling should not result in the creation of a real or perceived “IDP status”. Such misperceptions may place IDPs at risk, contribute to discrimination and stigma, and exacerbate community tensions. It may also give the impression that IDPs are being singled-out for preferential treatment or create incentives for others to present themselves as displaced in order to access assistance or services.

Profiling or registration?

Registration is one of several profiling methodologies. It involves the gathering and recording of detailed personal data with the aim of identifying the person at a later time, for instance to facilitate the delivery of assistance and protection.

Registration is not necessarily required, and sometimes not even desirable, in IDP contexts: rather the benefits of registration depend on factors such as the actual need for detailed data, the role of the government, and the period during which the information will remain valid. Where registration is needed, efforts must be made to seek informed consent for the collection, registration and use of data.

Appropriate data protection mechanisms must be put in place to safeguard confidentiality and protect those registered from potential protection risks, including violence, discrimination or stigma.

2. Main Methodologies


IDP profiling is based on sound data collection. As IDP situations can vary widely, they will not all require, or even allow for, the same scope or type of data collection. Data-collection methods must be conceptually sound as well as practical and well-documented. They should facilitate the tracking of displaced persons and obtain realistic, commonly agreed estimates of their numbers and profiles.

¹ These might only be best estimates in many cases, especially in sudden emergencies or where IDPs are located in areas difficult to access. Estimates might be from primary or secondary sources and will need to be verified later with more systematic methodologies.

The chart below gives an overview of the most practical and widely used methodologies, including both quantitative (numerical) and qualitative (non-numerical) methods. Quantitative methods are based on statistical designs, are comparable to one another, and are often complemented with qualitative methods. Note that most methods require some kind of *triangulation*, that is, comparison of data on the same situation, yet gathered through different methodologies.

Methodology	Description
1. Desk review	<p>A desk review involves the assessment and analysis of existing data from all available sources, both locally and internationally. It provides important background information and helps to assess what further data is needed.</p> <p>It can include review of various types of data, such as statistics, reports, evaluations, news reports, governmental registers (e.g. tracking births, deaths, marriages, residence, voting, census), information provided by civil society organizations and so forth. The IDMC database on internal displacement, covering over 50 countries, can be a useful source as well (see www.internal-displacement.org).</p>
<p>Quantitative Methods – These methods collect (mainly) numerical data on the whole population or part of it, although results can often be extrapolated to the whole population.</p>	
2. Rapid population estimates	<p>Such methods are suitable for estimating the numbers and basic characteristics of a population in a short period of time, such as during ongoing movement. Although ground access is generally needed for accurate estimates, some estimates can be made without such access. Rapid population estimates are most useful when applied to a well defined geographic area. Key methods include:</p> <ul style="list-style-type: none"> • Area survey using aerial/satellite imaging – Used to gain a broad picture of an ongoing movement, to estimate numbers, or see what people are fleeing from and where they are moving to. Useful when the need for information is urgent and access is limited. • Flow monitoring – People are counted when passing a given point (crossroads, bridges, mountain passes, etc.). Can be comprehensive, i.e. taking place continuously, or based on spot checks (counting at the same location at certain times of the day or week). Useful for estimating numbers during mass movement (e.g. during an exodus or return). • Dwelling count – Counts the number of huts/houses/tents in a given area to obtain an estimate of the number of the people in that area. Can be combined with a survey to obtain additional information on the residents. • Head count – Counts the number of people settled in a given area. This method is labour intensive in comparison to a dwelling count. • Dwelling/Head count using sampling methods – With the help of sampling methods,² counts a subset of dwellings or of the population and extrapolates the results to estimate the overall population figure.
3. Surveys	<ul style="list-style-type: none"> • Surveys involve the collection of data on a sample or part of the general population and generalizing the results. They can be used at both the household and the individual level. They are useful when the population and ground conditions are stable, allowing for the collection of additional information. • Surveys can be used to identify IDPs within a larger population group or to identify individuals and groups with specific needs within the IDP population. In this case, a cross-section of the whole population would be interviewed to compare differences in socio-economic status or exposure to risks between IDPs and the local population. ►►



² **Sampling** is the process of selecting a representative portion (“sample”) out of the total (“sample universe”). It can drastically reduce the cost of the exercise in terms of time and human and other resources, while preserving the accuracy of the data to the maximum extent possible. In addition, profiling can be done using primary sources (data that agencies collect themselves) or secondary sources (data that comes from the reports of others) or, for best results, a combination of both.

Methodology	Description
4. Registration	<ul style="list-style-type: none"> The primary goal of registration is to establish the identity of persons through detailed data-collection at the individual or household level. The level of detail and use of data will differ among humanitarian organizations, depending on the purpose of registration. For example, registration for the purpose of delivering assistance generally requires less detail than registration relating to specific protection interventions. Registration often takes place in a phased approach, first at the family/household level and then at the individual level. In most cases, registration data will have to be regularly updated (continuous registration). <p><i>Note! Informed consent must be sought for collection, registration and use of data. The purpose of registration must be explained to all concerned prior to taking place. Also note that registration interviews are not “status determination” interviews: IDPs have the same rights and entitlements as other citizens and residents in their country and do not need to “apply” or “be granted” a special status to receive protection and/or assistance.</i></p>
5. Population census	Usually conducted by national governments every ten years. A census covers the entire population of a country and, in addition to individual data, gathers a set of relevant socio-economic data. Humanitarian actors can support a census and, for instance, request that data relating to IDPs is also collected to improve protection and assistance interventions.
<p>Qualitative Methods – Involve the collection of (mainly) non-numerical data and are not based on statistical concepts. They complement quantitative methods and are particularly useful for <i>triangulating</i> and interpreting results.</p>	
6. Interviews	<ul style="list-style-type: none"> Focus group discussions – These are structured discussions, using the same set of questions, with different groups within the population. It involves separate discussions with women and men, of different ages, and diverse backgrounds (ethnicity, language, religion, with disability, etc). They are helpful to gain a better understanding of people, their concerns and capacities, and help ensure that the information collected represents the views of all the different groups within the society (see Part III.1).  Key informant interviews – Key informant interviews are usually conducted with a small number of pre-selected individuals, who may hold relevant information. Interviews should include both men and women of different ages and diverse backgrounds, as with focus group discussions.

Caution! The safety of displaced individuals, families and communities must be a primary consideration at all times. The rights to privacy and confidentiality must be respected and informed consent is to be sought for the collection, registration and use of information. This requires that the purpose of profiling and intended use of information is clearly defined and explained prior to it taking place. Adequate mechanisms for data protection and confidentiality must also be put in place.

3. Key protection considerations on profiling

Regardless of the methodology chosen certain common protection standards must be taken into account and applied.

<p>1. Support the role of national authorities</p>	<p>The primary responsibility for providing protection and assistance to displaced persons and other affected communities lies with the national authorities (see Part I.1).  Creating parallel structures and information systems may not be sustainable, thus, where possible national structures should be supported. This is all the more important where humanitarian actors have limited access to displaced populations.</p> <p>Different considerations may however apply in cases where the authorities are unable or unwilling to provide protection and assistance, or where the information collected might put the displaced community at risk.</p> <ul style="list-style-type: none"> • Assess national data gathering systems and, where possible, work with and support such systems rather than creating a parallel system.
<p>2. Ensure IDP/host community participation³</p>	<p>Both the displaced and the host community (men and women of different ages and diverse backgrounds) should be consulted in order to ensure that their views or concerns are accurately reflected. Failing to do so may undermine the accuracy of the profiling and have adverse effects for displaced individuals and communities (see Part III.1). </p> <ul style="list-style-type: none"> • When possible, ensure the participation of men and women of different ages and diverse background in all phases of the profiling exercise (planning, implementation, and analysis). • Experience has shown that IDP self-profiling can yield very useful data. It may also provide opportunities to identify community-based protection mechanisms in need of support and gaps to be filled. • Consider in advance how the profiling will be perceived by the IDP community, the local community, local authorities and other actors and take action to minimize the risk of tension, discrimination or stigma arising against the IDP community.
<p>3. Reach common objectives with partners</p>	<p>Different partners may enter the profiling exercise having different requirements, objectives and divergent plans for follow-up.</p> <ul style="list-style-type: none"> • Ensure that all partners agree on the purpose of the profiling and that it will result in improved protection and/or assistance of the relevant population. • Be inclusive; try to incorporate the expertise of other sectors/clusters in profiling exercises and share the results with relevant humanitarian partners.
<p>4. Respect privacy and seek informed consent</p>	<p>Some IDPs may prefer to remain anonymous and not be identified as being displaced, either for reasons of privacy or because of fear of discrimination, stigma or various forms of violence, including forced evictions or arrest and detention.</p> <ul style="list-style-type: none"> • Always seek informed consent from individuals on the collection, registration and use of data. This requires that the purpose of profiling and intended use of information is clearly defined and explained prior to it taking place. • Assess what impact the profiling exercise may have on IDPs and their communities prior to it taking place. Where IDPs either oppose the exercise or their safety and security may be put at risk, profiling may need to be limited to secondary data-analysis.

³ Usually, profiling targets IDPs, as their situation is unknown and data on host communities is normally available on official records. However, appropriate profiling can also target surrounding communities to get a better appraisal of the IDP situation as well as an updated overview of the situation of the communities.

5. Protect confidentiality	<p>Profiling and other information gathering often involves collection and management of sensitive and confidential information. Inadequate data security and data-protection measures can both violate people’s right to privacy and place them at risk. The safety and best interests of internally displaced persons must be a paramount consideration at all times.</p> <ul style="list-style-type: none"> • Ensure that confidentiality guidelines are adopted and implemented, and that confidentiality of data is secured at all times.
6. “Profile” your team members	<p>Teams undertaking profiling may need to gather data from individuals of different age, sex and background, who may have suffered as a result of conflict, displacement and human rights abuses.</p> <ul style="list-style-type: none"> • Detailed interviewing of victims/survivors of human rights abuses should never be undertaken by those undertaking profiling. Interviewing requires skills, a solid understanding of protection, and knowledge of available referral and response mechanisms. It should only be undertaken by trained staff. • Ensure that profiling teams include individuals of different ages, sexes and ethnic, religious, linguistic and other backgrounds to facilitate outreach and counter possible mistrust, fear or perceptions of partiality.
7. Keep in mind ‘invisible’ IDPs	<p>While some IDPs may seek safety in camps, settlements or public areas and buildings where they can easily be identified, many others may seek shelter with friends, family members or ‘host families’ in urban or rural areas. They may thus be difficult to locate or distinguish from the resident population. Certain individuals or groups, such as women, children, older persons and persons with disabilities, often remain ‘hidden’ or lack freedom of movement. As a result they are sometimes neglected or ignored by humanitarian programmes.</p> <ul style="list-style-type: none"> • Ensure that profiling exercises do not ignore certain IDP groups, such as those living with host families or in rural areas, or certain individuals, such as women, children, older persons or persons with disabilities. • Household surveys can be useful in such circumstances as they enable collection of more detailed information, including not only IDPs but also host families. • Information indicating an increase in numbers of people living in certain areas or accessing certain services can also be useful.
8. Ensure data is gathered according to age and sex	<p>Disaggregation of data according to age and sex is necessary to be able to assess the specific situation or needs of men and women of different age groups.</p> <ul style="list-style-type: none"> • Make an effort to obtain information specific to men, women, girls and boys to minimize the possibility of overlooking specific needs related to age and sex.
9. Formulate specific mechanisms for IDPs on the move	<p>Population movements during displacement can change continuously and it can be difficult to distinguish between those who are still on the move, those who have settled temporarily, and those who are moving back and forth between their homes and hiding places or camps.</p> <ul style="list-style-type: none"> • In addition to other methodologies, it can be helpful to form a dedicated “population movement committee,” as is the practice in eastern DRC and Somalia. Such committees, which include participation by local authorities, NGOs and civil society, try to obtain regular data on new IDP movements.
10. Coping with pressures related to numbers	<p>Profiling may bring to light that previously known numbers were under-estimated or, in some cases, over-estimated. There may be political or financial pressure to either limit or inflate numbers. Numbers may also be used or misused for political or other purposes.</p> <ul style="list-style-type: none"> • Such pressures are best overcome if all involved ensure that profiling exercises are methodologically sound and undertaken in a collaborative and inclusive way.



Resources

- *Guidance on Profiling of Internally Displaced Persons* (endorsed by the IASC Protection Cluster in July 2007, forthcoming 2008) will be available at www.humanitarianreform.org
- *Improving IDP Data: Prerequisite for More Effective Protection*, by E. Rasmussen, in *Forced Migration Review*, December 2006, p.16-17 www.fmreview.org
- *Handbook on Registration*, UNHCR, 2003 www.refworld.org



Useful websites

- Internal Displacement Monitoring Centre www.internal-displacement.org

Guidance Note 9

Humanitarian Evacuations

1. Protecting civilians during evacuations

Humanitarian evacuations usually take place in situations of natural disaster. In situations of armed conflict however, humanitarian evacuations are strictly a measure of last resort.

Civilians in conflict situations may find themselves caught between, or even targets of, the fighting parties. While some may be able to flee from insecure areas using their own means, others, including those already displaced, may be unable to reach an area of relative safety. Humanitarian evacuations often have serious security, ethical, political and logistical implications. **Humanitarian actors, in cooperation with States, have exceptionally resorted to emergency evacuations or transfers in utterly extreme circumstances, when there was no other way to provide urgent assistance or protection to respond to severe threats to life and security.**

Bosnia-Herzegovina 1992-93:

... Political insistence on the right to stay should not in practice prevent people in danger from seeking safety. In many areas, remaining minorities wanted only one thing to leave, and to be helped to leave. This created a serious dilemma for UNHCR and ICRC. While the organizations wanted to avoid becoming part of the conflict objective of ethnic relocations, they also recognized that assisting people to leave was often the only way to save lives. As High Commissioner Sadako Ogata put it, "if you take these people you are an accomplice to ethnic cleansing. If you don't, you are an accomplice to murder."

Experience has shown that poorly planned or executed humanitarian evacuations may result in a failure to protect and a significant loss of life.

Planning humanitarian evacuations requires careful consideration of the potential negative impact on the human rights of evacuees and individuals in other affected communities. These rights include the right to seek safety within and outside of one's borders; to be protected from ethnic cleansing and arbitrary displacement; and the freedom to choose one's place of residence.¹ Humanitarian evacuations can also undermine the core humanitarian principles underlying humanitarian action — humanity, impartiality and neutrality —.

1.1 Different scenarios

Scenarios in which humanitarian actors have provided direct assistance or support to relevant authorities include:

- **Relocation** of populations from endangered areas, such as camps, conflict or disaster areas, to another part of the country; justified for reasons of public security, health or safety, and other risks to life, including the presence of armed elements and health risks caused by overpopulation.

¹ See Part I.1

- **Humanitarian Evacuation** of the wounded, sick and other civilians, including IDPs, trapped by armed conflict (traditionally carried out by the ICRC and national Red Cross and Red Crescent Societies).
- **International Humanitarian Transfer or Evacuation Programmes** of individuals or groups of persons at particular risk of imminent attack or serious human rights violations into another country.²

In the context of natural disasters, States and the humanitarian actors assisting them should first and foremost seek to **protect on site**, by all measures necessary, affected individuals and communities facing a serious risk for the life, physical integrity or health. However, where **such measures would be insufficient**, they reflect how endangered persons should be allowed and assisted to leave the danger zone and, to the extent that they cannot do so on their own, **endangered persons should be evacuated from the danger zone by using all available means.**

IASC Operational Guidelines on Human Rights and Natural Disasters ("IASC Guidelines")

In conflict situations, it is part of the ICRC's core mandate and traditional role to negotiate with parties to the conflict for the safe evacuation or transfer of the wounded, the sick and civilians, including IDPs, trapped in conflict. UN agencies and other international organizations, such as IOM, may also be involved in large-scale humanitarian evacuations and transfers in disaster and conflict situations.³

2. Key protection considerations

The context in which transfers and relocations can take place may vary significantly. A detailed situation analysis, including the motivations of the main actors, is necessary in each case to determine to what extent assistance might make humanitarian actors accomplices to human rights violations (i.e., by helping to consolidate the displacement) and to what extent immediate assistance is needed as a life-saving measure for the affected populations. An in-depth, even if fast, assessment of all factors having a potential impact on the transfer and relocation will also be critical to ensure that the diplomatic, protection, relief, security and logistics machinery that may need to be put in place, stands up to the challenges of the operation.

The operational experience gained to date highlights the need for humanitarian actors to respect a number of common standards.

Coordinated assessments and analysis (see Part III.1)



In planning evacuations, transfers and relocations, diplomatic advocacy efforts with national and international actors are critical to:

- Organize with national and international partners effective information-sharing mechanisms.
- Develop a joint analysis of risks and gaps. Individual actors' analysis of the situation may be influenced by their mandates, interests and capacities and they might promote different approaches or priorities as a result. To strengthen the emergency response, it will be vital to ensure that such joint analysis is done at the earliest stages.

² Humanitarian Transfer Programmes (HTP) and Humanitarian Evacuation Programmes (HEP) consist of assistance and protection measures undertaken by humanitarian actors and cooperating States to move people to safety, in neighbouring countries within a "region" (HTP) and outside the "region" (HEP), respectively. These programmes are different from existing Refugee Resettlement programmes, which mainly deal with individually recognized refugees and with clearly defined refugee groups in a country of asylum, and are undertaken annually by States independently of other States and humanitarian actors, although in coordination with them, according to their own criteria for humanitarian programmes.

³ Much of this experience has been gained in situations where refugees or asylum-seekers have been in imminent danger in a first country of asylum. In some of these cases, endangered persons were moved away from areas under attack to safer areas within the country (for example, Sierra Leonean and Liberian refugees relocated from Guinea's border areas in 2001) and in other cases, they were moved to safety in third countries (for example, Kosovo refugees in Macedonia in 1999, Uzbek asylum-seekers in Kyrgyzstan in 2005).

Key protection considerations (cont)

- Discuss with all stakeholders, as appropriate, including with the local communities, the best way to ensure protection before, during and after the evacuation. Consideration should be given to every possible scenario, including what can go wrong during the evacuation, to minimize the risks to the life and integrity of civilians.
- Ensure that all operational partners are aware of and agree on who should be included in programmes, destinations, transportation and reception conditions.

Selection of relocation site and/or host communities

(see Parts V.8 and IV.6)





- Consult with relevant authorities and partners within coordination structures to identify a relocation site and/or host community. Where possible, include IDPs and members of surrounding and host communities in the selection and planning process.
- Ensure that site viability assessments include core protection and self-reliance considerations, including: distance from areas of conflict or presence of armed actors; access to social services; basic infrastructure; livelihood activities; proximity to other communities; and any aspects that could create potential protection risks to the evacuees.⁴
- Hold discussions with representatives of the host community and individuals of different ages, sex and backgrounds to ascertain whether the host community accepts the settlement of the evacuees.
- Discuss and negotiate with relevant authorities:
 - Concrete and effective measures to ensure safety and security at the new location;
 - National protection mechanisms and the commitment to activate them as required; and
 - Humanitarian access and protection monitoring.

Freedom of movement and information

(see Parts V.13 and IV.12)






- Establish appropriate monitoring and community mobilization mechanisms to ensure that the evacuation of individuals is based on their voluntary decision informed by an understanding of the consequences of evacuation, transfer or relocation. This includes the choice not to return to or settle in any place where their life, safety, liberty and/or health may be at further risk.⁵ If feasible, planning should allow members of the IDP community to visit the new site (see Part V.1). 
- Work with relevant local authorities, parties to the conflict, humanitarian agencies, and community leaders to ensure that the evacuees be allowed to move and settle in other parts of the country as they wish, both during and after evacuation or relocation.
- Discuss with relevant authorities, agencies, and representatives of the affected communities how the different agencies can help disseminate information to all segments of the affected communities. Information should address the reasons for evacuation, anticipated procedures and timeframes, destinations, and the potential consequences of choosing to move or to stay.
- Identify any restrictions on freedom of movement and settlement through human rights/protection monitoring in the new locations during and after evacuation movements (see Part IV.1).⁶ 

⁴ For example, in some cases, crossing areas of a different ethnic composition or walking long distances to schools, food or water-supply points may expose displaced persons to physical attacks, as well as gender-based and other forms of violence.

⁵ The IASC Guidelines guard against becoming involved in involuntary evacuations, transfers and relocations. “Unless it is necessary for the protection of affected persons against very serious and imminent threats to their lives, their physical integrity or health, evacuations against their will, or prohibitions against their return, should not be supported by organizations providing protection and assistance to persons affected by natural disasters, even if they have been ordered by the competent authorities.”

⁶ Such restrictions should only be limited to those provided by law, and are necessary to protect national security, the safety and security of affected populations, public order, public health or the rights and freedoms of others.


<p>Negotiations for safe access and passage (see Part IV.2)</p> 	<p>Obtaining reliable guarantees from the parties to the conflict to permit safe evacuation of civilians across the frontlines is a challenge, particularly where the parties to the conflict are using civilians as pawns.⁷ Even small-scale attempts to evacuate civilians sometimes require arduous negotiations before the warring parties allow the evacuees to leave.</p> <ul style="list-style-type: none"> • Safeguarding the core humanitarian principles of humanity, impartiality and neutrality during negotiations for safe access and passage, will require solid coordination among all humanitarian actors. • To ensure that all actors speak with one voice, one agency should be assigned to lead the negotiations on behalf of the country team. • Humanitarian actors should undertake contingency planning for eventual breaches of agreements on safe access and passage by parties to the conflict. Meticulous forward planning will be critical to minimize potential loss of life and any other risks to the civilian population and humanitarian staff.
<p>Logistics for ensuring safety and dignity</p>	<p>Implementing evacuation and relocation operations requires complex logistical coordination in areas of origin, transit and destination, among relevant UN agencies, international humanitarian organizations, national/local authorities and civil society actors, and in some cases, third States.</p> <ul style="list-style-type: none"> • Take concrete measures to ensure that the transfer will be done in safety and with dignity, including with regard to persons with specific needs, such as persons with disabilities, older persons, pregnant women, and separated/unaccompanied children. • Ensure that health care, food and shelter are provided during transit and in the destination areas. • Raise the awareness of donor countries of the complexity of existing challenges in a timely manner, to ensure that there is sufficient financial support from the outset to boost operational capacity and meet the protection goals of the evacuation.
<p>Land, housing and property (see Part V.11)</p> 	<ul style="list-style-type: none"> • Advocate with national authorities and with the parties to the conflict to ensure that they assume their responsibility for safeguarding property, homes and common assets left behind. These should be protected against destruction and arbitrary and illegal appropriation, occupation or use. • Assist communities in safeguarding land, housing and property-registration documentation. If security conditions allow, help them undertake an <i>ad hoc</i> emergency property assessment or an informal certification system before or immediately after evacuation, where no official records exist. If necessary, advocate for national authorities to legally recognize the property left behind and to issue appropriate certifications.⁸
<p>Family unity (see Part V.9)</p> 	<p>Under no circumstances should families be separated as a result of relocation or evacuation movements, particularly if children are involved.</p> <ul style="list-style-type: none"> • Take practical steps to prevent separation of children from their families (i.e. encourage parents to teach their children their full names and addresses of destination; give parents light ropes to tie around their wrists and those of their children; provide parents with identity tags to attach to their children's clothes or around their necks or wrists and rehearse with them on how and at what point to put them on their children).⁹



⁷ For example in 1993, large-scale evacuation convoys carrying several thousand desperate civilians from Srebrenica were the target of shelling and sniping that killed over 50 people and wounded many others.

⁸ See “Implementing the Pinheiro Principles,” Interagency Handbook on Housing and Property Restitution for Refugees and Displaced Persons, March 2007.

⁹ For detailed guidance, particularly on preventing family separation of babies and small children, see *The lost ones; Emergency care and family tracing for separated children from birth to five years*; Child Protection Programme Division, UNICEF, April 2007.

	<ul style="list-style-type: none"> • Assist adult family members wishing to remain together to prevent separation from each other.
<p>Establishment of selection criteria for evacuation</p>	<ul style="list-style-type: none"> • A careful “pros” and “cons” evaluation of selection criteria for evacuation is required. Informed consent by the community on the final selection criterion is also essential. • Establish organized systems with specialized agencies to target and prioritize cases according to vulnerability and special protection needs. In particular, consider detainees, persons with medical needs, families with young babies, pregnant women with children, unaccompanied minors, women-at-risk, and the elderly. • Ensure transparency, fairness and consistence in the application of selection criteria for evacuation procedures. This is vital to minimize confusion, tensions and the perception that the selection process is unfair. • Avoid, and advocate strongly against, the establishment of rapid-processing systems, which frequently function on a “first come, first served” basis. While this is often the easier option in large-scale evacuations, such systems do not allow for the priority processing of persons or groups with especially urgent protection needs.
<p>Protection monitoring and advocacy (see Parts IV.1 and 3) </p>	<ul style="list-style-type: none"> • Establish enhanced monitoring and presence in both the new relocation site, and the area of origin, where individuals who stayed behind may be subject to increased persecution and grave human rights violations. • Ensure that individuals who chose to remain close to their homes, such as older persons whose relatives were evacuated, have access to ongoing support and assistance. Such situations should be referred to the relevant national institutions or local support networks and, if relevant, to humanitarian and human rights-mandated agencies. • Humanitarian actors should maintain a dialogue with relevant authorities to develop necessary measures to secure the new location, to avoid possible protection risks, to activate national protection mechanisms, and to maintain international presence and protection monitoring.


3. Key Challenges

Designing and implementing evacuation, transfer or relocation movements can involve formidable challenges. In particular, the following considerations should be analyzed through an inter-agency approach.

3.1 Erosion of the principle of asylum

Depending on the context, assisting in the relocation or evacuation of civilians within a country in conflict might have the effect of eroding the principle of access to asylum outside the country, at least temporarily. The right to seek asylum should remain an option for all individuals or groups both before and after a relocation or evacuation movement. Steps should be taken to provide information on this alternative both to the civilian population and parties to the conflict. The fact that asylum-seekers may have been internally displaced, even if due to a humanitarian evacuation, should not negatively affect their claim for asylum.

3.2 Patterns of arbitrary displacement and targeted human rights violations

In some circumstances, humanitarian assistance during an evacuation or relocation of civilians might not be especially controversial, particularly if the situation is not politically charged such as in a natural disaster context. However, when the population movement is part of a forced displacement policy or a deliberate strategy in an internal armed conflict, such as ethnic cleansing, humanitarian actors will face serious moral and political dilemmas.¹⁰ Humanitarian actors should try to avoid becoming involved in involuntary evacuations, transfers and relocations unless it is necessary for the protection of affected persons against very serious and imminent threats to their lives, their physical integrity or health (see Part V.1).¹¹ 



Resources

- *Protecting Persons Affected by Natural Disasters: IASC Operational Guidelines on Human Rights and Natural Disasters*, IASC, June 2006.
- *Evacuation of Children from Conflict Areas: Considerations and Guidelines*, UNICEF and UNHCR, Geneva, 1992.
- “UNHCR and ICRC in the former Yugoslavia: Bosnia-Herzegovina,” by Young, K., *International Review of the Red Cross*, Vol. 83, No. 843, September 2001.
- *Strengthening Protection in War: A Search for Professional Standards*, summary of discussions among human rights and humanitarian organizations, edited by Sylvie Giossi Caverzasio, 2001.

¹⁰ Even situations where natural causes are responsible for the displacement can be manipulated after the fact to pursue political or other objectives that violate the rights of internally displaced persons. For this reason, it is important to have a clear situation analysis before assisting with populations transfers.

¹¹ Quoted from *Protecting Persons Affected by Natural Disaster: IASC Operational Guidelines*.

Guidance Note 10

Community Mobilization

1. Why community mobilization is important for IDPs

During displacement, traditional support mechanisms within a community, such as extended families, friends, neighbours or other social networks, are often disrupted. For displaced persons, this adds to the conflict-related trauma they experience, and contributes to reducing their self-esteem and sense of control over their lives. As a result, it is difficult for communities to overcome protection risks inherent to displacement.


Community mobilization aims to restore feelings of self-worth and responsibility among the affected population. Ultimately, it should empower communities to develop their own protection responses and enjoy their rights, and find solutions. Wherever necessary, the international community should support this process. Communities will mobilize themselves when they have trust and confidence in a process and when they see benefits emerging from it.

Community mobilization involves:

- working with the community and its leaders;
- understanding the dynamics and structures within the community; and
- building on the capacities and strengths of its members in order to find solutions to identified concerns.

Other affected populations, such as host families and residents in surrounding areas, may be concerned that the presence of IDPs will lead to increased military activity or conflict-related violence, or be a drain on already limited natural resources. Community-mobilization activities need to encourage a dialogue between IDPs and surrounding populations to develop joint activities, based on common goals and interests, thereby fostering peaceful coexistence and helping to rebuild communities. These kinds of activities should be carried out at all stages of the displacement cycle, from initial movement to return or settlement in a new location.


2. Key activities to mobilize communities

Before embarking on community-mobilization activities, national and international staff should receive training. The training should provide guidance on necessary attitudes, skills and techniques and give an orientation on national or regional cultural practices and sensitivities. The findings of the situational analysis are a good basis on which to build (*see Part III.1*). 

Always remember that community members have first hand knowledge about the issues they face. Our role should be to stimulate and support ideas and activities, not to impose them.

The following activities should be adapted to each specific situation and do not need to be undertaken in a chronological order.

2.1. Community mapping of management structures

Understanding existing structures and ground rules within communities will guide humanitarian workers on how to establish a well functioning partnership with the community and help identify issues to address. 

- Observe the composition of communities and their leaders. Note their age, gender, ethnicity, religion and political affiliation. Assess if these are the regular leaders, whether they are respected or whether there are others.
- Jointly with the community, map the structures, coping mechanisms and support systems. Identify whom the community turns to when it faces a problem and whom they count on to organize the response.
- Work with the community to identify the strengths and skills of its members, agree on gaps and capacity-building needs.
- Find out the level of participation of women, children, particularly adolescents, and groups with specific needs, including minority groups.
- Invest time and effort in understanding how structures and mechanisms, including traditional justice systems, deal with taboos and individual rights. Discuss issues with leaders to understand why certain groups or individuals are excluded, if any.
- Give feedback on the mapping to the community to validate our findings and cross-check their own perceptions.



2.2. Community-based representation

While it is essential to work with communities through their representative committees, or to support the establishment of new ones, we should remain aware that committees will always develop their own internal dynamics. They might tend to serve the interests of only one part of the community. In addition, a committee elected at the start of an operation might not be so popular or representative of the community ten years later. All committees need to be monitored by the community members and have fair and transparent election processes.

- Regardless of their attitude, never antagonize existing community leaders as this might jeopardize our access to communities or their participation in planned activities. Instead, find way to work with them, seek their support for non-sensitive activities, such as the creation of sports clubs or older persons' groups, to build confidence and gradually expand the dialogue.
- Work with leaders and community members from all backgrounds to identify ways to disseminate information to *everyone* in the community.
- Analyze the ground rules for interaction with all the leaders and committees: how representative they are, who attends meetings, who speaks and who *dares* to question statements.
- Initiate discussions with groups that are neglected or marginalized and seek their views on how they see their integration within the community.
- Identify and highlight community values that support inclusive approaches to show that these are not "alien" concepts but already existing in traditional values.
- Note who in the community can influence traditional leaders and is open to change. Build their leadership and negotiating skills and support them in persuading leaders of the benefits of sub-committees, sub-area representatives, or the inclusion of new members in the existing leadership.
- If this fails or takes time, community mobilization can still take place by involving current leaders in activities and gradually developing a network of "focal points" in the community to create a broader representative base.
- As and when dialogue has reached sufficient maturity, and when IDPs are likely to remain in place for some time, initiate discussions or workshops with the community on governance, including representative and time-limited leadership, and on human rights and gender equality.
- Depending on the receptivity to the subject, determine the right time to encourage volunteers to organize fair elections and invite observers. Support the community in monitoring the process to ensure transparency and prevent intimidation.
- Avoid creating committees for the sake of committees. Work with people to agree on clear goals and ensure that the traditional leaders support the initiative.
- Take into account the constantly changing composition of the community in situations of continued displacement and encourage communities to revalidate the composition of their leadership regularly to reflect these changes.


2.3. Supporting community-based protection responses and solutions

Normally, communities and individuals develop mechanisms to respond to most of the protection issues they face. It is therefore essential to identify these mechanisms and build on them to ensure that they are inclusive and incorporate human rights. It is also important to identify groups that might not be given full attention by the community and might have specific protection problems.

- Work with community members and representatives to learn how the community responds to protection risks facing various groups, such as older persons, different ethnic groups, youths, and persons with mental and physical disabilities. Participatory assessments are a useful way to do so (see Part III.1).  Involve those members of the community in analyzing root causes of the risks, and whether these come from within or outside the community.
- Provide support in tackling both internal and external threats through targeted training:
 - Work with community leaders to inform all members about their responsibilities as duty-bearers and as right holders. For example, train special focal points within the population to disseminate information on rights and obligations.
 - Build the capacity of the community to handle procedures for civil documentation, land titling, and compensation. To do so, develop the expertise of selected focal points who will assist their peers and make related information accessible to the public.
 - Encourage direct meetings among the IDP community and external stakeholders involved in mitigating protection risks of durable solutions, including local authorities, police, registrars, and host communities.
- Provide guidance to community members on documenting existing good practices and participatory methods¹ and on how to collect, verify and analyze information on specific protection issues to determine a course of action.²
- Keep an open dialogue and agree with the community on the mechanisms that will be established to address identified protection concerns and ensure follow-up and monitoring.
- Generate debates on durable solutions envisaged by the displaced communities. Ensure that all members have access to objective and accurate information on the various options available (see Parts IV.6 and VI). 
- Provide regular feedback on agencies' interventions, progress and difficulties.

2.4. Working with the community on sensitive issues

A number of protection issues will be highly sensitive within the community as they relate to security, taboos, cultural beliefs, and financial interests. Such issues require caution and should be tackled by experienced staff.


- On the occasion of routine activities and meetings, regularly present and explain the position of humanitarian agencies on human rights and international legal standards.
- Avoid appearing judgmental about community practices; show respect and be culturally sensitive.
- Identify individuals within the community who are open to new ideas, especially among leaders, and explore ways of beginning a constructive dialogue.
- Ensure privacy in meetings of a sensitive nature to enable concerned individuals to speak freely.
- Focus on the reasons behind the issue/practice and discuss this with the community in addition to the consequences and effects of such practices.
- Work with the community to identify small areas for change, such as alternative practices that uphold values or address concerns without violating rights.
- Engage men in issues relating to empowerment and equality of women. Use focus groups to discuss issues such as masculinity or gender-based violence.
- Working with community leaders, organize mass-information campaigns, awareness-raising activities, training, theatre activities with groups of men, women, boys and girls of different age and backgrounds. 


¹ Provide examples from other locations and facilitate go-and-see visits, when appropriate.

² Leave information at the end of any meeting, workshop, etc., so that it can be reviewed and further discussed.

- Involve host communities in these discussions and activities, particularly when they face similar problems or when issues create tensions between the two communities.

2.5. Supporting community action plans and teams

When the community has shown full ownership of the protection-response strategy, it is time to draw up a community action plan, based on the analysis of rights, the prioritization of protection risks and solutions, and the identified needs (*see Part III.1*). 

- Ensure that the interests of the different groups, including minority groups and host communities, have been represented, and that children have been consulted in an appropriate manner.³ If the level of participation remains insufficient, discuss what arrangements will be made to address the outstanding issues or go back to some of the activities under “supporting community-based protection responses and solutions.”
- Help the community to articulate its own action plan with clear timeframes, methodologies, division of roles, and needs for assistance to achieve their chosen solution.
- Support flexible and efficient responses through the creation of small **action teams** composed of volunteers and developed around important issues, such as children’s rights, the environment, and men’s group on HIV/AIDS.
- Use the action teams to emphasize the contributions of each segment of the population, including older persons in charge of day care, literacy and cultural activities, to combat marginalization.
- On sensitive issues, define broader scope for the action team, such as an “education team” to review more general issues but also monitor drop-out rates, recruitment or GBV risks.
- Facilitate joint planning and actions between IDPs or former IDPs and their surrounding communities to facilitate integration and foster good relations. These could include organizing a documentation exercise to issue identity cards for all communities in the area or set up a joint vocational training centre or a reforestation project.
- Use representative committees and action teams established during displacement as key catalysts to rebuild communities in return or new settlement areas.
- Support self-reliance strategies as essential for all affected communities to regain stability and confidence in the future (*see Part V.16*). 


2.6. Facilitating discussions (For more advice, see Annex to this Guidance Note):

Different methods are appropriate in different contexts.

- Focus groups are useful for exploring group responses to a topic of common concern, but may be inappropriate for sensitive topics, such as GBV.
- Semi-structured discussions or discussions at an individual or household level are appropriate for obtaining more personal, detailed information and analyzing problems that will not easily emerge in a group discussion.
- Using different methods at different times will elicit various perspectives on protection risks and provide an opportunity to cross-check the reliability of the information and confirm an understanding of the situation.

2.7. Community-based monitoring and evaluation

The community should directly monitor the impact of activities implemented by themselves and by humanitarian agencies on their behalf. This will reinforce their sense of ownership and confidence over achieved results. It will also help quickly identify and address problems in implementation that otherwise might create tensions.

- Work with leaders to agree on effective monitoring systems by the community and develop an inter-agency monitoring system in addition. 

³ See Annex on communicating with children.

- Continuously monitor and identify emerging protection needs and concerns. Prioritize and incorporate the required response in the overall plan of action.
- Undertake regular participatory evaluations using focus groups and other methods. Keep evaluation tools simple and ensure participation of all groups.
- Build on previously agreed plans and findings of participatory assessments to note progress and identify weaknesses.
- Agree with the community on the adjustments or remedial measures needed to address weaknesses and fill gaps and jointly assess the impact of such measures over time.
- Discuss attitudinal changes among teams or sub-groups within communities on the basis of their level of initiative over a period of time, autonomy, and assertiveness in interventions.
- Ensure that all staff wears individual identification so that their attitudes and quality of services can be monitored and evaluated by persons of concern.
- Follow up and share outcomes of evaluations with the community. Document learning and achievements and ensure it is shared among all agencies.

3. Challenges

Community mobilization is a long-term process. It takes time, skills and resources for humanitarian agencies to build a strong working relationship with IDPs. IDPs are often scattered over large areas and can easily become “invisible” in the care of host families or in urban settings. The humanitarian community needs to commit itself, from the beginning of an operation, to engage in a partnership with persons of concern and to ensure that they participate in activities that affect their lives.

Affected communities do not necessarily know the difference between one agency and another. While respecting each other’s mandate, coordination among the different agencies in order to “speak with one voice” and to decide on key principles for how to engage with the community, is essential. Agencies referring to different leadership structures or setting up parallel channels risk undermining the work of partners and creating confusion within the community. Agencies should use and build on community groups and action teams established through community-mobilization programmes to benefit from their understanding of key protection issues and reinforce their legitimacy.

In highly politicized and volatile situations, IDPs may be reluctant to be identified as “community leaders,” as this might expose them to security risks. Action teams represent a more informal and less sensitive approach for members of the community to act on their community’s behalf.



Resources

- *A community-based Approach in UNHCR Operations*, Provisional Release, UNHCR 2007
- *Participation by Affected Populations in Humanitarian Action: Practitioners’ Handbook*, Active Learning Network for Accountability and Performance in Humanitarian Action, 2003.
- *Tools for Community Participation: A Manual for Training Trainers in Participatory Techniques*, L. Srinivasan PROWESS, UNDP, New York, 1990.
- “Reinforcing a Community Development Approach,” UNHCR, EC/51/SC/CRP.6, 15 February 2001.



Useful Websites

- Food and Agriculture Organization of the United Nations: www.fao.org/Participation
- United Nations Children Fund (UNICEF): www.unicef.org
- United Nations Development Fund for Women (UNIFEM): www.unifem.org
- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org
- United Nations Population Fund (UNFPA): www.unfpa.org
- Women’s Commission: www.womenscomission.org

Annex: Discussing the issue

Communicating with adults:

- Meet with women, men, boys and girls from different ages and backgrounds in order to allow them to freely express themselves and to ensure that protection risks specific to a certain age and/or gender group become visible.
- Inform the group in advance that you would like to talk to them and ask for a suitable time to ensure that they do not have to take time away from household tasks or income-generating activities. Be on time!
- Ensure that the leaders in the community are aware that the meeting is taking place.
- Make sure that you have enough time for the meeting and that you are assembling in a private area so that individuals feel relaxed and can express their concerns without worrying that others are listening.
- If, in a focus group, a person raises a sensitive issue, it is often best to follow-up separately in a one-to-one setting with that person.
- During the discussion:
 - Introduce yourself and explain why their participation is important, that participating is voluntary, what will happen with the information, the importance of confidentiality, and how the participants will receive feedback afterwards;
 - At the beginning of the meeting, introduce themes that are neutral and of common concern as a way to start the discussion;
 - Ask open questions such as how, what, where, why as much as possible, especially to clarify or confirm understanding. Do not judge people who speak: accept what they say;
 - Avoid using leading statements and questions;
 - Avoid dominating the discussion; ask simple questions and only one question at a time;
 - Ensure that everybody in the group get a chance to talk. Be sensitive to cultural norms so that nobody feels rushed or excluded. Be aware of persons dominating within the group; and
 - Steer the group towards analyzing the causes of the risks, the skills they have at their disposal to resolve their problems, and the role of the community in developing solutions.

Communicating with children:⁴

Children and young people should always be included in participatory assessments. Girls and boys have needs and abilities that are significantly different from those of adults. It is essential to ensure that each child is participating in the assessment voluntarily and that parents have given permission for younger children to participate. Communicating with children has some particular requirements, including:

- Try to be at ease with children, engaging with them in whatever style of communication suits the individual, such as by sitting on the ground, through play, going for a walk, and tolerating expressions of distress and/or aggression;
- Use simple language and concepts appropriate to the children's age, stage of development, and culture;
- Accept that children who have had distressing experiences might find it extremely difficult to trust an unfamiliar adult. It might take time and patience before a child has enough trust to communicate openly;
- Understand that children might view their situation in distinctly different ways from adults: children might fantasize, invent explanations for unfamiliar or frightening events, express themselves in symbolic ways, or emphasize issues that might seem unimportant to adults;
- Be sensitive to gender, culture, ethics, and the power relations between adults and children; and
- Encourage the involvement of colleagues/partner staff who are familiar with working with children in a participatory way.


⁴ The following list is taken from UNHCR's *Tool for Participatory Assessment*, 2006, page 34.

Guidance Note 11

Mental Health and Psychosocial Support

1. The importance of psychosocial support in an IDP context

Being displaced can have severe adverse effects on the physical, social, emotional and spiritual well-being of a person. Exposure to violence or disaster, loss of or separation from family members and friends, deterioration in living conditions, the inability to provide for one's self and family, and lack of access to services, can all have immediate and long-term consequences for individuals, families and communities, including post-traumatic stress disorders, psychosomatic illness, depression, anxiety and even violence.¹

Protection strategies should therefore include interventions to protect and promote mental health and psychosocial well-being. Because these types of interventions focus on highly sensitive issues, they must be conducted in a socially and culturally appropriate way and take into account the age, gender and diverse backgrounds of all members of the communities. Interventions should promote resilience among populations and be based on human rights principles, as well as on the principles of participation and "Do-No-Harm" (see Part I.1.5). 

2. What is psychosocial support?

The IASC Task Force on Mental Health and Psychosocial Support in Emergency Settings has developed Guidelines published in 2007. This chapter is largely based on these inter-agency guidelines, which should be referred to for more detailed interventions.²

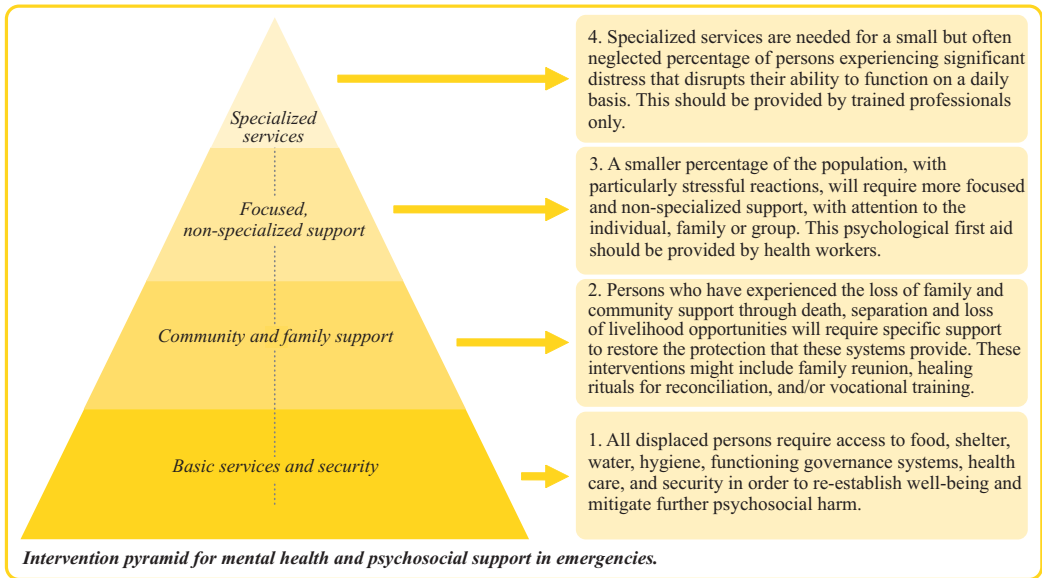
The IASC Guidelines define mental health and psychosocial support as two complementary approaches covering "any type of local or outside support that aims to protect or promote psychosocial well-being and prevent or treat mental disorder." The word "psychosocial" captures the interrelation between psychology (individual thinking, emotions, feelings and behaviour) and the social world or environment in which we evolve (culture, traditions, spirituality, interpersonal relationships in the family or community, and life tasks, such as school or work).

The Guidelines also clarify that mental health and psychosocial support require various levels of interventions, ranging from broad programmes on basic services and security issues, to community and family support interventions and increasingly focused and specialized mental health services. It is therefore necessary to distinguish between interventions that benefit the population at large (non-specialized services) from those interventions that require specialized expertise.

All humanitarian actors are expected to contribute to non-specialized responses and to ensure that coordinated referral and response mechanisms are put in place when more specialized interventions are required (please refer to the pyramid and table below). Coordination among actors is crucial to ensure broad and effective prevention and response mechanisms.

¹ In some cases, such factors might contribute to a change in behaviour, including increased substance abuse, aggression and higher levels of sexual and domestic violence.

² The IASC Guidelines on Mental Health and Psychosocial Support in Emergency Settings, 2007.



3. Key considerations: psychosocial support in situations of internal displacement


The State has the primary responsibility for ensuring the psychosocial well-being of the population on its territory, and for providing specialized services through mental health structures. In times of armed conflict, generalized violence or natural disaster, it might not have the capacity to handle additional needs and might require temporary assistance from the international community.

Strategies to protect and promote the psychosocial well-being of internally displaced and other affected populations, should mobilize existing care systems and capacities within the community to promote the restoration of a sense of normality. The re-establishment of family and community life and the protection from further harm are central to that end.




3.1 General

- Ensure that assessments, including in emergencies, always include a component on mental health needs and available resources among the displaced and other affected populations, looking at:
 - Existing sources of psychosocial and mental health support, whether in the formal health system or within supportive community structures;
 - Current capacities and activities of organizations on the ground with regard to psychosocial support and mental health;
 - Programming needs and strengths, including functionality of referral systems across sectors;
 - No assessment should attempt “diagnosis” unless with qualified personnel (clinical psychologists, psychiatrists or medical staff).
- Coordinate with specialized partners to ensure that assessments should foresee “fast track” systems for the referral of persons identified as having specific needs or being at heightened risk.³ Persons with pre-existing mental illnesses should be immediately prioritized for rapid response (see Part III.1).
- Coordinate with the primary health-care providers, both governmental and NGO-run, to ensure equal access to mental health-care services to all communities and individuals (see Part V.15).

³ UNHCR, Draft document, June 2007, Heightened Risk Identification Tool.


- Advocate for integrated, specialized, community-based psychosocial support in ongoing programming, emergency preparedness and contingency planning.
- Ensure that mental health and psychosocial support concerns are part of the relevant clusters/sectoral agendas. Solicit the Health Cluster/Working Group as well as the protection cluster/working group to provide basic orientation on psychosocial and mental health to non-specialized humanitarian actors (see Part I.3). 
- To prevent further harm, ensure that information on these programmes is formulated in a culturally sensitive manner and in an appropriate language. Verify that *Standard Operating Procedures* for referrals are in place and that agencies respect confidentiality safeguards.

3.2 Basic services and security

- Coordinate with all sectoral programmes to ensure access to basic services (health, education, food, water, shelter, livelihood support) by all displaced persons, regardless of age, gender, language, religion or other background criteria. In what way basic services are provided will highly impact the well-being of persons of concern (see Part IV.7). 
- Involve all members of the community in needs assessments, design of activities and actual responses across sectors. Encourage their feedback and monitoring of all programmes and open channels of communication so that they can express their concerns, emerging needs or proposed community initiatives (see Part III.3). 
- Organize focus group discussions and other consultations on security issues; encourage the community's initiatives to secure its self-protection, and provide support when required. When appropriate, promote a dialogue between local law-enforcement authorities and the affected communities in this regard. Advocate with appropriate authorities for the establishment of security measures requested by the community (see Part V.3). 

3.3 Strengthen community and family support

(see Part IV.10)

- Assess the social dynamics within the IDP community in order to identify the existing support structures and build on them. The participation of local staff in such initiatives can be of great support.
- Disseminate information about support mechanisms and activities within the community.
- Ensure that psychosocial initiatives:
 - Help communities understand that they are experiencing normal reactions to abnormal situations;
 - Reduce the impact of stress; and
 - Include communication and problem-solving skills training for affected communities so that they can seek and obtain concrete help.
- Identify cases of family separation and initiate immediate registration and family tracing to ensure early reunification (see Part V.9). 
- Identify persons at risk in institutional settings, including orphanages, older persons' homes, mental health institutions and prisons or detention centres. Provide for their protection and, when appropriate, alternative community-based care.
- Facilitate appropriate cultural, spiritual and religious healing practices, and other community self-help activities.
- Establish or improve access to safe and supportive formal and non-formal educational opportunities for girls and boys, including for disadvantaged or traditionally marginalized groups, and expand capacities for psychosocial support within formal and non-formal educational settings.



	<ul style="list-style-type: none"> • Encourage the reestablishment of normal cultural and religious events and activities in order to support social networks and recreational activities for girls and boys. • Involve adults and adolescents in concrete, useful activities, such as constructing/organizing shelter, organizing family tracing, distributing food, teaching children, or providing vocational training and livelihood-support activities. • Advocate for and support the development of community-based skills development programmes to promote self-reliance and adequate livelihoods for persons who have lost their traditional families and community-support networks.
3.4 Focused non-specialized support	<ul style="list-style-type: none"> • Arrange training activities with health specialists on psychological first-aid interventions for local primary health-care workers. • Raise awareness on substance abuse. All humanitarian staff, including local staff, should be able to contribute to overall sensitization in this area. • Promote the availability of appropriate psychological, legal, social, economic, educational and medical support to survivors of human rights violations and encourage their participation in family and community activities. • Ensure that interventions in mental health and psychosocial support empower women and girls as well as individuals or groups with specific needs, including older persons; enable them to play an active role in organizing their lives, attaining self-sufficiency and reducing dependency. Such interventions should incorporate follow-up during and after local integration, return or settlement in another area.
3.5 Specialized services	<ul style="list-style-type: none"> • Conduct a thorough assessment, with the community and relevant specialists, of the mental health impact of the displacement. Review the status of pre-existing mental health and related disorders in the community and pre-existing services and their current status. • Identify supportive community structures that might assist in identifying, referring and supporting persons needing specialized services. • Work with specialists to ensure that non-specialized humanitarian actors are sensitized and trained to identify and refer mental health cases to specialized programming. • Broaden the availability of specialized mental health care through general and community-based mental health services. • Advocate for and assist in the re-establishment or creation of support and services when they do not exist. • Build on linkages among agencies, protection and health clusters or working groups and national health authorities to promote further training and capacity-building of local mental health professionals when required.

4. Challenges

- Lack of mental health structures in certain locations may undermine the effectiveness of the response. Advocacy with the central government should be used to address this problem, when necessary.
- Lack of specialized personnel in government services or in the aid community may result in non-specialized staff undertaking activities for which they have not been trained. In these cases, the Global Health and Protection Clusters should organize the secondment of expertise to the operation.
- Lack of understanding of, and respect for, local cultural norms and practices by humanitarian workers may cause harm if responses are inappropriate or if through setting up of external support mechanisms local capacities are undermined.



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Guidance Note 12

Coordination and Management of camps and other collective settings

1. The protection value of coordination and management of collective settings

Collective shelter, especially where accommodating large numbers of people, can pose challenges to the well-being and dignity of displaced persons. Nonetheless, when alternative accommodation is not available, camps or other collective accommodation such as settlements or shelters must be established.

Appropriate coordination and management of camps and collective settings can alleviate many of the difficulties faced by IDPs and provide a link between displaced persons and humanitarian actors – fostering accountability at the camp and inter-camp levels.


Well-managed camps and camp-like settings can strengthen physical, legal and material protection, and security. They also facilitate access to humanitarian assistance, including food, clean water, life-sustaining commodities, medical services and education.¹

If undertaken with a protection perspective and in close partnership with protection actors, camp management and coordination can ensure that displaced individuals enjoy their human rights as well as fair and equal access to the available humanitarian services.

2. Key responsibilities for camp co-ordination, management and administration

Appropriate coordination and management of camps and collective accommodations is primarily a responsibility of national authorities. In practice, states often welcome humanitarian actors who support them, through building capacity to ensure the protection and assistance of displaced populations. International agencies, NGOs and others should fill existing gaps only when a State lacks the capacity or the willingness to do so.

Camp coordination involves overseeing the humanitarian response in or between several camps or settlements; camp management takes place *at the camp level*. Both functions can be performed by the national authorities and humanitarian actors, although in the latter case, national authorities must acknowledge their overall responsibility.

Where country operations have adopted the IASC cluster approach, and if agreed with national authorities, responsibility for camp or site coordination rests with a designated lead agency (see *Part I.3*). At the global level, UNHCR is the lead agency for camp coordination and management in situations of armed conflict and IOM provides the same leadership in natural disasters.

2.1 Camp coordination

Coordination of camps and camp-like settings involves bringing together relevant humanitarian actors to ensure that activities are complementary and to support IDPs in realizing their basic rights. It includes:

¹ This chapter does not deal with accommodation provided by host families.

- Coordinating with national authorities on development and support of national or regional plans for establishment and management of camps and other collective accommodations.
- Ensuring that the roles and responsibilities of each actor are well understood by other humanitarian actors as well as by displaced persons and surrounding populations.
- Negotiating humanitarian access to camps and other settings.
- Monitoring implementation of internationally accepted standards.
- Promoting linkages between humanitarian activities in camps and national public services, such as education, health, public works, etc. with a view to ensure their sustainability and to extend their benefits to the different communities.
- Supporting humanitarian actors through:
 - Designating camp management agencies after consultation;
 - Improving information management by systematic collection, analysis and dissemination of baseline data on displaced populations, humanitarian services and their providers, as well as identification of humanitarian gaps; and
 - Supervising partners through monitoring and evaluating the protection impact of services provided.

2.2 Camp management

Camp management includes those activities in a *single* camp or other setting related to:

- Coordination of humanitarian services and assistance.
- Establishing and supporting IDP governance structures that represent the diversity of the displaced population.
- Promoting community mobilization and participation in all aspects related to living in collective accommodation.
- Monitoring and advocating safe and non-discriminatory access to facilities and services by all camp residents.

This function requires regular presence in the camp to perform the following tasks:

- Creating opportunities for information exchange between humanitarian actors and the displaced community in the camp, the host community and national authorities.
- Establishing mechanisms for regular discussion with internally displaced persons of different ages, gender and backgrounds, to fully understand their needs and concerns as well as existing gender roles, resource sharing, ownership and decision-making practices.
- Establishing regular coordination mechanisms at the camp level including meetings and information sharing channels.
- Ensuring, through ongoing monitoring and reporting, the adequate maintenance of site infrastructure and the agreed delivery of services by all partners.
- Gathering and sharing with relevant humanitarian actors baseline data on the internally displaced persons (using a commonly agreed format).²

2.3 Camp administration

Camp administration involves the functions of governments and national civilian authorities related to supervising activities in camps, including:

² This does not include protection-related information, which should be primarily gathered by the main protection organization working in the camp or setting and treated with the highest degrees of confidentiality.

- Providing security, ensuring maintenance of law and order and the civilian character of displaced persons' camps.
- Designating, opening and closing camps and other settings.
- Securing land and occupancy rights for camps, and resolving disputes arising from the appropriation of land in order to prevent claims against IDPs or agencies working in the camps.
- Issuing civil documentation, permits and licenses (birth certificates, ID cards, travel permits, etc.) to citizens hosted in camps.
- Preventing eviction, relocation or any further displacement of those living in the camp before they can return home or are offered other residence that conforms to international standards.
- Facilitating camp access for humanitarian actors including timely provision of any required documentation.


3. Key considerations for the creation of a protective environment in camps and camp-like settings

All humanitarian actors working in camps and similar settings must promote protection for the camp residents and surrounding communities. Protection concerns must be taken into account in addressing the following issues:

3.1 Site planning and setting up of camps/sites

(see Part V.13)



- Selecting, opening and closing camps and other sites is the responsibility of national authorities. Camp coordination and management agencies should advocate for the selection of areas located at a safe distance from violence and which are sustainable (i.e. accessible to local services, markets, possibilities for sustainable livelihoods, etc.).
- National authorities should secure land and occupancy rights for camps and other sites, resolving any disputes arising from the appropriation of land.
- Families should have individual accommodation, to the extent possible. This helps in mitigating the risk of exploitation and abuse, particularly for single women and unaccompanied and separated children.
- IDP camps and other sites should be designed with the participation of the displaced community, taking into account protection aspects of location, layout and design of services. Considerations should include:
 - Size of the camp/setting;
 - Family plot layout;
 - Safe access to services, including sanitation facilities — in particular for women and girls — schools, camp/site management offices, markets and community centers;
 - Security lighting; and
 - Establishment of child-friendly spaces.
- National authorities should allow freedom of movement outside and beyond the surroundings of camps and other sites. Humanitarian actors should ensure that their interventions do not hamper the freedom of movement of the IDPs (i.e. avoiding construction of closed sites, unsafe locations, etc). Under certain conditions, restrictions on the freedom of movement are permissible if they are provided for by law and are necessary to protect certain other rights (see Part V.8). 



3.2
Coordination
between all
partners

(see Part I.2)



- All humanitarian actors involved in a camp or other setting should work together to ensure that humanitarian programmes fit within the overall national IDP framework or policy (if the state and/or the coordinating agency has developed one).
- All humanitarian actors should have a shared vision and a good understanding of the protection concerns in different camps and camp-like settings. This will avoid interventions that increase protection gaps or pose additional risks.
- Interaction should take place between those responsible for different sectors and protection mandated partners, who often need to intervene on the basis of concrete activities by other sectors (i.e. addressing SGBV issues in relation to distribution of assistance)
- Promoting a general understanding of the role and capacities of protection mandated agencies helps to build confidence between these agencies, IDPs, and national authorities.

3.3
Community
mobilization

(see Part IV.10)



- Using governance structures or community leaders, all humanitarian actors should systematically involve the IDP community in the planning, implementation and delivery of services.
- All humanitarian actors should develop an in-depth knowledge and understanding of the community living in the camp or site. This includes becoming aware of- and using their capacities for the planning and implementation of activities and services in the camp. Camp managers should assess capacity-building needs within the community and ensure that they are adequately tackled with community leaders and all humanitarian actors.
- All different groups of IDPs should be represented in governance structures. Camp managers should provide leadership training and support to camp governance structures. If necessary, camp managers should establish IDP governance structures.
- Camp managers and other humanitarian partners should support women, adolescent girls and boys to strengthen their leadership capacities and facilitate their meaningful participation in decision making instances in the community.

3.4
Information
management

(see Parts IV.6
and IV.8)



- All humanitarian actors should agree on *common standards* for gathering, analyzing and disseminating baseline data, at least in the context of their broader assessment and planning exercises.
- In addition, all actors should agree on a *common referral system* and *procedures* for addressing protection cases.
- Specific *protection* data (i.e. individual reports on human rights violations, cases of abuse, fraud, etc), should be gathered and managed by protection mandated agencies only, preferably one agency who acts as the protection focal point for the camp/site.
 - Gathering of protection data must *only* take place, however, when *response capacity* is in place and when an explanation can be given to camp residents as to how this information will be used (see Part IV.1).
 - The lead protection agency should ensure the confidentiality of such data as well as referral of cases to specialized protection agencies and adequate follow up through case management systems.
 - The main protection organizations should share relevant data with other protection organizations to avoid collection of the same data by other protection actors in the same camps and camp-like settings.
 - Information on the overall protection trends and any data that could have implications on the management of the camps/settings will be shared by the Protection agency under strict confidentiality with the camp/site manager and vice-versa.




- The camp/site manager will ensure that information gathered is analysed and shared:
 - With the camp coordinator/lead agency for consolidation and dissemination to actors at inter-camp / site level – OCHA, Humanitarian Coordinator, local authorities, cluster / sector leads;
 - With the IDP community governance structures but also with the wider camp population through mass information channels to secure equal access of information by women, men, boys and girls resident in the camp.

3.5 Humanitarian assistance

(see Part IV. 7)




- Registration and documentation systems in camps and other sites should ensure smooth assistance distribution using coupons or ration cards, rather than specific IDP personal documents, which could lead to stigmatization of displaced persons.
- Planning and implementation of assistance distribution should include protection considerations, including equal access by all IDPs, the IDP situation vis-à-vis surrounding communities and the eventual need of the latter for humanitarian assistance (see Part IV.7). 
- All protection mandated agencies, service providers and IDPs should agree on *standard operating procedures* to manage fair and efficient assistance distribution.
- All assistance and services provided should promote self-reliance, in order to avoid longer-term dependency on aid and to the earlier achievement of durable solutions.
- Camp managers should monitor the delivery and use of assistance to ensure that camp residents have non-discriminatory access to facilities and services.
- Camp managers should establish and publicize a system for complaints regarding access to humanitarian assistance.

3.6 Security

(see Part V.3)



- National authorities have the responsibility to ensure the safety and security of internally displaced persons.
- Authorities may lack the capacity or the willingness to provide safety and security for IDP camps and other sites. In situations of armed conflict, this is aggravated by continuing violence and the collapse of institutions and infrastructure. Particularly in such cases, humanitarian actors should be clear to all camp residents as to their inability to provide security and their lack of mandate to do so.
- Camp management agencies can support and negotiate with authorities to increase police security services in camps and to provide police training (including female officers).
- Community based initiatives should be encouraged to communicate information through radio, theatre or printed media providing objective security information and advice.
- Camp managers should support the development of community policing programmes. Such programmes should ensure participation of women and should include training in basic principles of law enforcement, be adequately supervised, monitored and equipped (see Part V.3). 

3.7 Presence of armed actors/groups in humanitarian settings

(see Part V.3)



- All agencies' staff should be trained to monitor and report on the presence of armed actors/groups in humanitarian settings.
- Camp management should work with security staff to establish early warning and preparedness mechanisms which identify and respond to potential security threats, including armed conflict and the infiltration of armed actors into camps and other sites.



- Camp managers should consult regularly with camp residents, including camp leaders and security committees, on security issues and discuss measures they feel can contribute to improved security; this should contribute to give IDPs a sense of shared responsibility for their own security.
- Preventative security measures can reduce opportunities for attacks on camps or infiltration by armed elements. Such preventive measures may include:
 - Establishment and training of IDP camp security committees;
 - Information and communication campaigns or other activities to sensitize the community of the negative impact of militarization; and
 - Locating camps away from areas of active conflict or continuing instability.
- Camp management, in coordination with protection agencies, should notify authorities immediately should armed elements enter camp locations.

3.8 Preventing forced recruitment

(see Part V.5)



- Camp management agencies play a central role in monitoring and reporting incidents of forced or attempted recruitment, especially of children, from camps. Such information should be shared under strict confidentiality with protection mandated agencies.
- Situational analysis should identify groups or persons at risk of recruitment by armed forces or armed groups, and should assess possible agents of recruitment and tactics used.
- Community awareness and community-based efforts can help to prevent recruitment. Equally important, are provision of adequate levels of assistance and fair distribution mechanisms.
- Programmes which promote family livelihood activities, vocational training, recreational activities, and health care for all children, including girls, can reduce children’s vulnerability to recruitment. Camp management agencies should encourage development of such activities.
- Because schools can be recruiting grounds for armed elements, special measures should be taken to protect and monitor schools. Educational opportunities, including for girls, should be reinforced.
- Individual registration and documentation of children, especially unaccompanied or separated children, are important protection tools and can help to prevent the recruitment of children. Registration data can help to ensure that any recruitment in the camp or in the schools is detected early, allowing for preventative measures to be taken.
- Camp management should pay special attention to children associated with armed groups, as they are at particular risk of re-recruitment.³

3.9 Access to justice


(see also Part V.9)



- All humanitarian actors and camp residents should be aware of the applicability of the national legal system. In some cases, camp/site residents may bring with them traditional or non-formal justice or dispute settlement mechanisms. Such systems may also be developed in camps when there is limited or no access to national justice systems.
 - Serious crimes, such as murder, rape, assault, child abuse or exploitation should *always* be handled through the national justice system.

³ The expression *child associated with armed forces or armed groups* refers to any person below 18 years of age who is or who has been recruited or used by an armed force or armed group in any capacity, including but not limited to children, boys and girls, used as fighters, cooks, porters, messengers, spies or for sexual purposes; *The Paris Principles: Principles and Guidelines on Children Associated with Armed Forces or Armed Groups*, February 2007.

– Alternative or traditional justice systems are often useful to settle petty crimes and juvenile justice issues. Camp management and protection actors working in camps and camp-like settings should develop an understanding of such systems. They should establish a dialogue with the relevant leadership of such systems to ensure that they fully respect human rights standards.

- Camp management agencies and other humanitarian actors do not have authority to deal with crimes committed by or against IDPs. However, they do have a responsibility to advocate for non-discriminatory access by camp residents to the national justice system.
- If access to courts is hampered by the remoteness of camp or site locations, humanitarian actors can support local authorities by providing them with transportation, fuel, or creating mobile national courts to visit the relevant areas on a regular basis.
- The camp or site management and protection mandated agencies should advise residents about law enforcement mechanisms applicable to them and how to access them. Specialised partners (i.e. mobile legal clinics) can be brought in if required (see Part IV.5). 

3.10 Durable Solutions

(see Part VI)



- Camp administrators (local authorities), are responsible for issuing civil documentation, permits and licenses (birth certificates, ID cards, travel permits, etc.) which enable IDPs to enjoy basic rights, and to access a durable solution to their situation of displacement. Humanitarian actors should support the efforts of local authorities in this field.
- All humanitarian activities in camps should promote self-reliance and sustainable livelihoods. This focus should be built into all assessment and planning processes. The ability of potential service providers to orient their interventions in practice towards these goals should be part of the core selection criteria.
- When the majority of IDPs in a site has found a durable solution, closure strategies should be developed jointly with IDPs and national authorities. Such strategies need to ensure that the protection concerns of the remaining camp or site residents are taken into account.
- Camp management should make particular efforts to find durable solutions for persons with specific protection needs.



Key References

- *Guidance Note on the Management of Collective Centres* – CCCM Global Cluster 2007.
- *Inter-Agency Gender Handbook* – CCCM Chapter: <http://www.humanitarianreform.org>
- *Sphere Guidelines – Humanitarian Charter and Minimum Standards in Disaster Response*, 2004 Edition: www.unicef.org/emerg/files/sphere_handbook.pdf
- *Needs Analysis Framework, (NAF)* – CCCM Chapter: <http://www.icva.ch/doc00002343.doc>
- *The Camp Management Toolkit* – The Camp Management Project 2008: http://www.flyktninghjelpen.no/arch/_img/9069531.pdf
- *Operational Protection in Camps and Settlements, A Reference Guide of good Practices in the Protection of Refugees and Other Persons of Concern* – UNHCR 2006: <http://www.unhcr.org/publ/PUBL/448d6c122.pdf>
- *Practical Guide to the Systematic Use of Standards and Indicators in UNHCR Operations*, February 2006/Second Edition: <http://www.unhcr.org>



Useful websites

- The Camp Coordination and Camp Management Global Cluster Website: <http://www.humanitarianreform.org>
- Humanitarian Reform: www.humanitarianreform.org
- The Camp Management Project: www.flyktinghjelpen.no
- United Nations High Commissioner for Refugees, (UNHCR): www.unhcr.org
- United Nations Children Fund (UNICEF): www.unicef.org
- Reliefweb (OCHA): www.reliefweb.int



Part V

PROTECTION RISKS: PREVENTION, MITIGATION AND RESPONSE

(Action Sheets)

Overview

Part V of the Handbook provides guidance to human rights and humanitarian staff working in complex emergencies on ways to prevent and respond to specific protection risks and concerns that often arise in situations of internal displacement.

The Part is composed of 19 Action Sheets, each of which addresses a specific risk or problem that is commonly encountered by internally displaced persons and affected populations. Each Action Sheet:

- Describes the risk in question, analyzes its impact upon the lives and well-being of internally displaced persons, and identifies the individuals and groups most at risk.
- Provides an overview of relevant legal principles and standards contained in international (and regional) human rights, international humanitarian law, and international criminal law, where applicable, and emphasizes the responsibility of the State to respect and ensure respect for these principles.
- Contains a table with suggested activities that can be undertaken by human rights and humanitarian actors to prevent and/or respond to the risk in question. Many of the generic activities are described in greater detail in the Guidance Notes in Part IV of the handbook.
- Identifies key national, regional and international actors who can play a role in the response.
- Provides a list of useful references, tools and websites where further information can be found.

The Action Sheets provide general guidance which will have to be adapted by teams in the field to suit the context and the day-to-day reality of operations, including with regard to the roles and responsibilities of the different protection actors.

The provisional edition of the Handbook will be field tested during the first half of 2008. All human rights and humanitarian staff and partners are encouraged to provide feed back on the Action Sheets. Examples of relevant field practices, which will be included in the first edition of the Handbook, would also be welcome. All comments and suggestions can be sent to hqidphb@unhcr.org.

Action Sheet 1

Forced and Unlawful Displacement



Key message

Forced displacement, which currently affects over 50 million people worldwide, has serious consequences for the lives, health and well-being of individuals and communities. It can occur in a wide range of circumstances and as a result of a variety of factors. Forced displacement is often, but not always, unlawful. While international law provides numerous safeguards against forced displacement, there may be circumstances in which it can serve a legitimate purpose. Even in such cases, however, it must meet certain minimum safeguards and take place in conditions of safety and dignity.

Note! All persons have a right to move freely and in safety within their country and to leave the country and seek asylum in another country at any time. Efforts to prevent and/or minimize forced displacement and mitigate its adverse effects must not in any way restrict or limit freedom of movement, impede people's ability to move, or influence their decision to do so.

As a general rule, every effort must be made to prevent unlawful displacement from taking place. When displacement does occur, efforts should be made to minimize and mitigate its adverse impact on individuals and communities and ensure a durable solution for all those affected.

1. What is forced displacement?

Forced displacement occurs when individuals and communities have been forced or obliged to flee or to leave their homes or places of habitual residence as a result of or in order to avoid the effects of events or situations such as armed conflict, generalized violence, human rights abuses, natural or man-made disasters, and/or development projects.

It both includes situations where people have fled as well as situations where people have been forcibly removed from their homes, evicted or relocated to another place not of their choosing, whether by State or non-State actors. The defining factor is the absence of will or consent.

2. What does international law say about forced displacement?

In general, international law prohibits any form of forced displacement. There are only a few exceptions from this rule.

See also Principles 5, 6, 7 and 9 of the **Guiding Principles on Internal Displacement**. (in Annex 1).

2.1 International (and regional) human rights law

guarantees several rights which provide safeguards against forced displacement. While there is no specific right to protection against forced displacement as such, it is inherent in a number of human rights, including the rights to freedom of movement and choice of residence,¹ the right to respect for the home and for privacy,² the right to an

¹ See, at the international level, Art. 13 of UDHR; Art. 12 of ICCPR; Art. 5(d)(i) and (f) of ICERD; Art. 15 of CEDAW; and Art. 16 of ILO Convention No. 169 Concerning Indigenous and Tribal Peoples in Independent Countries; At the regional level, Art. 12 of AfCHPR; Art. 22 of AmCHR; Arts. 20 and 21 of ArCHR; and Art. 2 of Protocol 4 to the ECHR. See also Principle 14 of the Guiding Principles on Internal Displacement.

² See, at the international level, Art. 12 of UDHR; Art. 17 of ICCPR; Art. 8(16) CRC. At the regional level, Art. 10 of AfCRWC; Art. 11 of AmCHR; and Art 8 of ECHR.

adequate standard of living, including food and housing,³ and the right to respect for the family.⁴


Forced displacement can only be justified on an exceptional basis under human rights law and subject to strict conditions. It must be provided for by law and be necessary and proportionate to achieve a legitimate aim, such as to protect national security or public order, public health or morals, or the rights and freedoms of others. It must be non-discriminatory and consistent with other human rights and international legal obligations of the State.

Even when displacement can be justified, it must meet certain substantive and procedural safeguards and take place in conditions of safety and dignity. As an example, any decision to displace individuals or communities must be taken by competent authorities. Those affected must be informed of the reasons and procedures for displacement and given an opportunity to challenge the decision, including through independent judicial review. Wherever possible, their informed consent should be sought, their participation in planning and implementing the decision ensured and fair compensation given. Displacement should never be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Particular care must be taken to protect indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands from displacement.

Certain human rights, such as freedom of movement can be temporarily suspended by the national authorities in times of a public emergency, such as during armed conflict.⁵ Such situations are usually governed by international humanitarian law.

2.2 International humanitarian law

requires parties to a conflict to spare the civilian population as much as possible from the effects of hostilities and to treat all civilians in their power humanely (See Part I.2.2).  The law specifically prohibits parties to a conflict to order the displacement of the civilian population, in whole or in part, unless the security of the civilians involved or imperative military reasons so demand, and requires that displaced persons be allowed to voluntarily return in safety as soon as those reasons cease to exist.

When is displacement unlawful?

Forced displacement is only permissible on exceptional basis and for a limited number of reasons, as outlined above. **It is *always* unlawful:**

- When it is based on policies of apartheid, ethnic cleansing or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population.
- In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
- In cases of large scale development projects, which are not justified by compelling and overriding public interests;
- In cases of disasters, unless the safety and health of those affected requires their evacuation; and
- When it is used as a collective punishment.

In addition, forced displacement ***can be* unlawful if:**

- Minimum procedural guarantees are not respected;
- If the manner in which it is carried out violates other rights and/or obligations that apply to the State or a party to the conflict, such as the rights to liberty and security, and the prohibition against torture, inhuman and degrading treatment;
- If its effects have a long term negative impact on the enjoyment of human rights.

³ See e.g. Art. 25 of UDHR; Art. 11 of ICESCR; Art. 5(e)(iii) of ICERD; and Art. 14(2)(h) of CEDAW; and Art. 27 of CRC; and at the regional level, Art. 15 and 16 of the Protocol to the AfCHPR on the Rights of Women in Africa. See also General Comments of the Committee on Economic, Social and Cultural Rights No. 4 (1991) on the right to adequate housing and No. 7 (1997) on forced evictions; and Principle 18 of the Guiding Principles on Internal Displacement.

⁴ See Art. 16 of UDHR; Art. 10 of ICESCR; Arts. 17 and 23 of ICCPR, Arts. 16 and 18 of CRC and at the regional level, Art. 18 of AfCHPR; Art. 17 of AmCHR; Art. 38 of ArCHR; Art. 5 of the Cairo Declaration on Human Rights in Islam; Arts. 8 and 12 of ECHR; and Art. 16 of the revised ESC. See also Principle 17 of the Guiding Principles on Internal Displacement.

⁵ See e.g. Art. 4 of ICCPR. Derogations are exceptional measures that are subject to strict requirements. See Part I.2.1.

The law also requires that all possible measures be taken to protect any property left behind and ensure satisfactory conditions while in displacement, including shelter, hygiene, health, safety and nutrition, and that members of the same family are not separated.⁶

Depending on the context, the forced displacement of civilians can constitute a war crime and/or crime against humanity.⁷

3. The responsibility of the State

The State and its institutions have a responsibility to respect and ensure respect for their human rights obligations at all times. In times of conflict, the parties to the conflict are similarly obliged to respect and ensure respect for the principles of international humanitarian law. The most effective way to minimize the risk of arbitrary displacement is to avoid conditions that might compel people to leave their homes against their will. In most cases, forced displacement could be avoided or greatly reduced if the rules of international law were respected. More specifically, national authorities should:

- Take all possible measures to prevent and avoid conditions that might cause or contribute to forced displacement. This could for instance include ensuring respect for the rule of law, combating impunity and otherwise creating an environment conducive to the realization of rights.
- Refrain from forcing individuals and communities to leave their homes or places of habitual residence and protect them from being arbitrarily displaced by others. The authorities should seek all possible alternatives before resorting to displacement.
- When displacement is necessary and justifiable, the authorities must take action to minimize the scale of displacement and mitigate its adverse effects. In particular, the authorities should ensure to the greatest possible extent, that it takes place in satisfactory conditions of safety, shelter, nutrition, health and hygiene, and that members of the same family are not separated.
- Ensure that displacement lasts no longer than required by the circumstances and that a durable solution is found for all those affected. The authorities should aim to create conditions for and facilitate voluntary return and reintegration and/or settlement elsewhere in the country. Displaced persons should not be discriminated against as a result of having been displaced and should be entitled to restitution and/or compensation for property they may have been arbitrarily deprived of.
- Make special efforts to ensure the full participation of internally displaced persons at all stages of the displacement cycle, including in the search for durable solutions.
- Provide protection and assistance to internally displaced persons. Where the national authorities are unable or unwilling to do so, they should ensure rapid and unimpeded access by humanitarian actors to populations in need and facilitate the free passage of humanitarian assistance.

4. The role of humanitarian and human rights actors


Human rights and humanitarian actors can play an important role in preventing and/or minimizing forced displacement and mitigating its adverse effects when it occurs. Such efforts should be based on an understanding of the applicable national and international legal framework and should be undertaken in close coordination with other relevant human rights, humanitarian, developmental and political actors. Humanitarian action must never undermine





⁶ See e.g. Rules 129-132 of Customary International Humanitarian Law Volume I: Rules (ICRC, 2005). See also Arts. 49 and 147 of the Fourth Geneva Convention; Art. 85(4)(a) and Art. 4(3)(b) of Additional Protocol I; and 17 of Additional Protocol II.




⁷ See Art. 147 of the Fourth Geneva Convention and Art. 85(4)(a) of Additional Protocol I. See also Arts. 7(1)(d); Art. 8(2)(e)(viii) and Art. 8(2)(e)(viii) of the Statute of the ICC.

the right of every person to move freely within and out of his or her country as well as to seek asylum in another country.

4. 1 Preventing unlawful displacement

Efforts to prevent or minimize unlawful displacement include a set of strategies and activities that seek to strengthen the rule of law as well as to prevent and respond to violations of human rights and humanitarian law. This can include building the capacities of the authorities to maintain law and order, combat impunity, ensure access to justice and promote the peaceful resolution of conflict and disputes. In times of armed conflict, special efforts must be made to ensure respect for humanitarian law by all parties to a conflict, including in particular provisions relating to the protection of civilians (see Part I.2.2). 

In our work we can...	
<p>Assessment (See Part III. 1) </p>	<ul style="list-style-type: none"> • Ensure that protection assessments and analysis gather information about any factors or events that might result in unlawful displacement. Pay special attention to factors such as potential political or ethnic tensions within the country, disputes over land and other resources, incidents of violence and human rights violations, and migratory movements which could result in clashes, for instance between resident farming communities and nomadic herders. • Such information should be shared with relevant actors in order to inform early warning mechanisms and/or contingency planning.
<p>Early-warning and contingency planning</p>	<ul style="list-style-type: none"> • Work with other human rights and humanitarian actors to establish early warning mechanisms and develop contingency plans to respond to incidents of forced displacement. Such plans should identify the key actors, their roles and responsibilities and the strategies and/or activities which should be undertaken in case displacement occurs. All staff and partners should be familiar with contingency plans and standard operating procedures. • Where appropriate, help build the capacity of the competent authorities to maintain early warning mechanisms and develop and implement contingency plans in case displacement is imminent or already occurring.
<p>Coordination (see Part III.3) </p>	<ul style="list-style-type: none"> • Ensure that all preventative efforts are coordinated with other relevant human rights, humanitarian, developmental, political and military actors, such as peacekeeping forces where present. This includes protection working groups at all levels, the broader country team and the humanitarian coordinator in the country.
<p>Presence (see Parts IV. 1 and 2) </p>	<ul style="list-style-type: none"> • Maintain high visibility presence in areas at risk of displacement, if security conditions allow. Humanitarian presence can, in some cases, help to deter violations of human rights. Such presence, however, must be carefully evaluated. The presence of humanitarian actors can be perceived as condoning or endorsing serious human rights violations, including forced displacement.
<p>Advocacy (see Part IV.3) </p>	<ul style="list-style-type: none"> • Advocate with relevant authorities and in times of armed conflict with parties to a conflict, and encourage them to respect and ensure respect for human rights and humanitarian principles as outlined in the relevant bodies of international law. Emphasize their responsibility to avoid creating conditions that might lead to displacement; to refrain from forcibly displacing people and protect them from being displaced by others; and to ensure that if displacement occurs it takes place in satisfactory conditions of safety, health, shelter and nutrition and that members of the same family are not separated.

	<ul style="list-style-type: none"> As needed, engage with influential stakeholders, such as regional or international organizations or relevant States, to encourage and support their involvement to minimize the risk of displacement.
Mediation and dialogue	<ul style="list-style-type: none"> Encourage open dialogue and support conflict prevention, mediation and resolution efforts at the local, regional and national level. Help build the capacity of civil society, communities at risk of displacement, national authorities and other stakeholders to participate in such efforts. This may include training on mediation and negotiation skills towards the peaceful resolution of conflicts.
Information <i>(see Part IV.6)</i> 	<ul style="list-style-type: none"> Support public information campaigns that aim to inform and raise awareness of human rights and humanitarian principles. In cases where displacement is imminent, work with the community to ensure that people are informed of their rights to move elsewhere within the country and to leave the country, for instance in order to seek asylum abroad.
Capacity-building and training <i>(see Part IV.4)</i> 	<ul style="list-style-type: none"> Work with human rights and developmental actors to build the capacity of the State to respect and ensure respect for human rights and humanitarian principles. This could for instance include help to strengthen the rule of law and build the capacity of the legislative, judicial, and executive branches of the State. In coordination with ICRC and other relevant actors, support training for armed forces and groups at all levels on how to meet their obligations under international humanitarian law. Work with civil society and community groups to strengthen their capacity to raise their concerns and engage with national authorities in order to prevent displacement. This may include providing training, expertise or material support. Support their participation in relevant regional or international fora and take other action to strengthen their message, and enhance the personal security of their membership.
Community mobilization <i>(see Part IV.10)</i> 	<ul style="list-style-type: none"> Ensure that individuals and communities are informed about and able to participate in public decision-making processes that affect their lives, including identifying alternatives to displacement. Support initiatives that promote self-reliance and access to basic services, such as education, health care and livelihoods, that can help reduce the need to seek such support elsewhere.
<p>Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org</p>	

4.2 Mitigating adverse impact of forced displacement

Detailed guidance on humanitarian involvement in *lawful* relocations or evacuations is provided in Part IV.9. 

Efforts to prevent *unlawful* displacement should take place at all times. Where such efforts fail and unlawful displacement occurs, the humanitarian imperative may require that life-saving assistance and services are provided on an emergency basis. Such situations, however, may present a dilemma for humanitarian and human rights actors as their involvement may be interpreted or perceived as condoning or endorsing unlawful displacement. As a result, the neutrality and impartiality of humanitarian action may be placed at serious risk. In light of the complexity of such events and the potential political, legal and security implications, any such involvement **must be cleared at the most senior level and in consultation with the Humanitarian Coordinator.**

In our work we can...

Assessment

(see Part III.1)



- Support a rapid assessment of urgent humanitarian needs arising as a result of displacement. Such assessment can take place prior to or during the movement.
- Identify problems requiring specialist expertise and advocate for the timely deployment of technical experts.

Humanitarian assistance

(see Part IV.7)



- Provide life-saving assistance and services, such as shelter, food, water and medical care. As soon as conditions allow, ensure that thorough assessment, planning and programming is undertaken in areas of settlement to facilitate a more sustainable humanitarian response.
- As soon as possible, reorient assistance activities to enable the displaced population to resume normal economic and social activities and limit dependency on aid.

Presence and monitoring

(see Parts IV.1 and 2)



- Negotiate for humanitarian access to communities undergoing displacement. If a generic protection presence, such as human rights monitors, is not accepted, try to agree on access for humanitarian assistance purposes, at least.
- To the extent possible and if security conditions allow, monitor forced movement of individuals and communities and ensure that accurate information is channelled to the relevant actors, such as the protection working group, the country team and the humanitarian coordinator.

Advocacy

(see Part IV.3)



- Undertake continuous advocacy with all relevant stakeholders to minimize and mitigate the impact of the displacement. Those responsible for displacement should be encouraged at all times to treat the displaced population humanely and meet their needs for safety, shelter, food, water and sanitation. Special measures should be taken to meet the needs of persons with specific needs.

Family unity

(see Part V.9)



- Support and implement measures to avoid family separation, particularly targeting children, older persons and persons with disabilities and ensure that family tracing and reunification activities are undertaken at the earliest opportunity.

Access to justice

(see Part V.10 and IV.5)



- Build the capacity of displaced individuals and communities to access justice and seek an effective remedy for any rights violated as a result of unlawful displacement. This can include providing legal counselling or other assistance to access the justice system.

Land and property

- To help reduce the impact of loss of land and property, to the extent possible, inform affected individuals and communities of the importance of safeguarding personal and other documentation, including those relating to ownership or use of land and property.
- At the time of flight or as close to the time of flight as possible, assist the community in gathering and safeguarding information about ownership or use of land and property. Such information can, for instance, include: copies of official records or registries, documents relating to mortgages, property or income taxes, telephone or utility bills, rental slips and photographs.

Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org



5. Key actors

Efforts to prevent, minimize and mitigate the effects of forced displacement require a coordinated effort by a range of actors:

- At the **national level**, key actors include displaced individuals and communities; all levels of government, in particular ministries of the interior, defence, housing and social welfare, the judiciary, law enforcement authorities, and the armed forces; national human rights institutions or commissions; civil society and local NGOs.
- At the **regional level**, key actors include regional organizations, such as the African Union, regional human rights courts, commissions, and special rapporteurs, regional peace-keeping forces, where present, and influential donor or neighbouring States.
- At the **international level**, key actors include various political developmental, human rights and humanitarian actors, as well as peace-keeping forces where present. Relevant actors include, for example, the Humanitarian/Resident Coordinator, OCHA, UNDP, OHCHR, UNHCR, UNICEF, UNIFEM, UNFPA, IOM, ICRC, and NGO partners.



Resources

- *Addressing Internal Displacement: A Framework for National Responsibility*, the Brookings Institution, April 2005. www.brookings.edu/fp/projects/idp/idp.htm
- *Handbook for Applying the Guiding Principles on Internal Displacement*, OCHA/Brookings Institution Project on Internal Displacement, 1999.
- *Manual on Field Practice in Internal Displacement: Examples from UN Agencies and Partner Organizations of Field-based Initiatives Supporting Internally Displaced Persons*, IASC Policy Paper Series, No. 1, 1999.
- *Protection of Internally Displaced Persons*, IASC Policy Paper Series, No. 2, 2000.

Civil Status and the Prevention of Statelessness



Key message

Displacement often results in the loss or destruction of personal documentation and civil- and other registries. Lack of documentation and other means to prove one's identity can have serious consequences for individuals and communities, including restricted freedom of movement, limited access to life-saving assistance and services, and exposure to harassment or arbitrary arrest and detention. The issue of nationality deserves special attention as displacement can also trigger or increase the risk of statelessness or place stateless persons in an even more precarious legal position.

1. Civil status and documentation in the context of forced displacement

Personal documentation and civil registries establish and provide evidence of the civil and legal status of individuals, including as it relates to birth, parentage, marriage and divorce, death, absence and guardianship. In countries where such registries do not exist or are incomplete, other traditional systems can, to a certain extent, guarantee the identity of individuals.

In situations of forced displacement, personal documentation is often lost, damaged or destroyed and both formal and traditional civil status systems seriously undermined. In some countries, civil registries may have been incomplete to begin with, certain segments of the population might have never been registered or issued documentation, or existing documents might have ceased to be valid because of a change in the legal or administrative regime.

As a result, individuals may encounter various difficulties in establishing and proving their legal and civil status or identity. Common obstacles include:

- Onerous **legal or administrative requirements** which internally displaced persons may have difficulty in fulfilling. Replacement documentation and/or recording of events, such as births, marriages, divorce or deaths of relatives, is often subject to strict criteria or high fees. In some cases, it may require displaced persons to return to the area of origin or the place of habitual residence, even if these remain unsafe.
- **Discriminatory laws or practices**, in particular against women, minority groups or indigenous persons, may prevent them from recording events and acquiring documentation or replacing lost documentation. In some cases, individuals face additional discrimination as a direct result of being displaced, in particular if they are viewed with suspicion or hostility by local authorities.
- National or local authorities may lack the **capacity, including financial resources and expertise**, to maintain civil status registries or issue replacement documentation. This is especially the case where conflict or natural disasters have disrupted the functioning of public institutions or where displacement is occurring on a large scale. In some cases, the authorities may also lack political willingness or under-estimate the importance of civil status and related documentation.
- Traditional systems, which often rely on witnesses and the knowledge of the elderly at the village or community level, can be undermined in situations of displacement owing to

separation of families and communities and the break-down of community structures and authority.

- Access to registration or documentation can be obstructed by various **logistical or practical difficulties**, including restrictions on freedom of movement and/or inability to travel, for instance because of ongoing conflict or factors such as age or disability, lack of knowledge of the language of registration, and poor literacy.

Lack of documentation and an inability to register events relating to civil status can have serious consequences for individuals and communities. It can result in restricted freedom of movement, limited access to life-saving assistance and services, exposure to harassment, arbitrary arrest and detention, and various other protection risks. As an example:

- Absence of birth registration and certificates can make it difficult to obtain a legal identity, which is necessary in order to access education, health care, social benefits.
- Lack of death registration and certificates can make it difficult to manage, inherit and/or reclaim lost property. Where regulations regarding missing or absent persons are inadequate, the spouse and other family members may be prevented from reclaiming property, make decisions regarding their children, or marry again.

Documentation can broadly be divided into two categories:

- **Citizenship or civil status documents**, which provide proof of identity and facilitate the exercise of various rights. These include passports, identity documents, birth, death, marriage and family certificates, residence and voting cards, and housing, land and property documents.
- **Documents specific to displacement**, which are only provided to those affected by displacement. They can both prove identity and/or entitle the holder to access special assistance or services. Such documents are not necessarily needed or desirable in all cases and can, if not carefully managed, expose displaced individuals and communities to discrimination, stigma and other risks.

1.1 Preventing and responding to lack of civil status and/or documentation

Registration of civil status and issuance of documentation are the responsibility of the State. Every effort must be made to support and strengthen national systems to ensure that internally displaced persons have **full** and equal access to civil status registries and documentation, including replacement documentation. This can be achieved in various ways, including by building the capacity of the national system through financial or technical support and training, by cancelling or easing administrative requirements, and/or by addressing the various obstacles faced by displaced persons. As an example, in cases where freedom of movement is limited, temporary or mobile arrangements can be made to improve access to registration and documentation.

The issuance of displacement specific legislation or documentation is not necessarily needed or desirable in all cases and can, if not carefully managed, expose displaced individuals and communities to discrimination, stigma and other risks. Where displacement specific responses are needed care must be taken to avoid the creation of parallel systems that may result in differences in treatment and a divide between the displaced and the wider population. It must also be ensured that registration and/or documentation as an IDP does not result in limitations on various rights, such as freedom of movement, the right to return to the area of origin, to reclaim lost property, or to vote and stand for public office.

Statutory and customary law often overlap in plural legal systems. Each has advantages and disadvantages in resolving problems faced by IDPs. For example, customary law might offer fair and expedient mechanisms to resolve disputes, but women generally have fewer rights than under statutory law. The latter, in turn, often does not recognize marriages and land

ownership under customary law, so widows and female-headed households often find themselves without legal standing as regards inheritance, pension or other rights that require proof of marriage and land ownership.

2. Statelessness in the context of internal displacement

Nationality is usually associated with civil status. The right to a nationality is often referred to as “the right to have rights” because of its importance as the basis for claiming other rights, ranging from recognition before the law to access to basic services.

Most human rights are to be enjoyed by everyone within the jurisdiction of the State, although a few rights, such as some political rights, can be limited to nationals. Non-citizens, including stateless persons, however often face practical obstacles to exercising their rights, including recognition as a person before the law, education and freedom of movement.

A **stateless person** is a person who is not considered as a national by any State under the operation of its laws. A person who technically holds a nationality but does not receive the benefits associated with nationality may be considered to be *de facto* stateless.

The term **nationality/citizenship** usually refers to the existence of a legal bond between a person and a State as provided for under the State’s laws. Nationality generally arises from descent (*jus sanguinis*), birth on the territory of the State (*jus soli*), naturalization, or upon state succession.

Becoming internally displaced does not automatically affect a person’s nationality status; most internally displaced persons remain nationals of their country. In some cases, however, there might be a close **connection between statelessness and internal displacement**:

- Statelessness can be a cause or a contributing factor to internal displacement, such as in cases where people have been forced to flee due to discrimination, including through the arbitrary deprivation of nationality of specific communities.
- Internal displacement can lead to statelessness, for instance in cases where territorial boundaries have been redrawn subsequent to displacement, or where birth registration is flawed or absent.
- Statelessness can serve as an obstacle to return or relocation, particularly when it prevents people from enjoying their rights, accessing basic services and establishing a sustainable livelihood.

Statelessness can result from a variety of **causes**, including:

- Discriminatory laws and practices;
- Conflict of nationality laws between States;
- The transfer of territory from one State to another;
- A failure to register children at birth;
- Arbitrary deprivation of nationality or denationalization of individuals or groups by the State;
- Administrative or procedural problems, such as excessive fees, lack of appeal or review procedures, or inability to obtain documentation; and
- Individual renunciation of nationality without acquisition of another nationality.

In situations of internal displacement, failure to register children at birth and loss of documentation testifying to nationality are frequent causes of *de facto* statelessness.

Lack of nationality can have serious consequences for stateless persons. These are frequently exacerbated during periods of internal displacement and include the inability to claim protection from relevant authorities; arbitrary arrest and prolonged detention; unfair travel

restrictions and limitations of freedom of movement; denial of employment or access to basic rights and services; inability to register marriages, the birth of children or the death of relatives; and denial of the right to stand for or vote in elections. On occasions, stateless persons have also been denied access to humanitarian assistance, both by relevant authorities and by the international humanitarian community.

Women often face particular difficulties due to discriminatory laws and practices relating to nationality. In some states, women who marry non-nationals are automatically deprived of their nationality, often without being able to acquire the nationality of their spouses. In addition, they might be prevented from re-establishing their former nationality in the event of a divorce, even though they might never have acquired, or have been deprived of, the nationality of their spouses.

Women are also frequently barred from passing their nationality on to their **children**, which might result in the child becoming stateless and in the denial of custody rights and restricted access for the mother to her children upon divorce or death of the spouse. A failure to register and extend nationality to displaced children, children born out of wedlock, children of minority groups and children of refugee, asylum-seeking or migrant families, places such children at particular risk of statelessness.

2.1 Preventing and responding to statelessness

Although States have committed themselves to preventing and reducing statelessness, lack of nationality remains a widespread human rights violation that places the lives and wellbeing of millions at risk.

In situations of displacement, States should make every effort to ensure the continuity of basic civil registration mechanisms, particularly the issuance of birth certificates to displaced people as a means to prevent statelessness. Stateless persons who habitually reside in the country and who have been displaced should continue to be authorized to exercise and enjoy their rights in areas of displacement and be protected against expulsion.

An adequate humanitarian response to statelessness will, in most cases, consist of efforts to protect the right to a nationality, by making sure that States grant nationality, and sustain efforts towards persons whose nationality status is in dispute or in doubt so that they are not discriminated against and are able to enjoy their rights. In exceptional cases, resettlement to a third country might need to be considered.

Some challenges in dealing with statelessness include:

- Contentious ethnic and political disputes, which often are among the root causes of statelessness. In some cases, States may perceive advocacy related to granting of nationality with hostility as constituting interference with domestic affairs.
- Lack of awareness and understanding of the consequences of statelessness by those affected. Stateless persons may not realize that they have lost their nationality or that it may result in deprivation of their rights. Communicating this may be difficult when those affected are illiterate or poorly educated.
- Failure to identify incidents of statelessness or prioritize responses to statelessness.

3. Role of human rights and humanitarian actors


International actors working on civil status issues, including documentation, should coordinate their positions and activities to ensure that a coherent and consistent message is delivered to national interlocutors at local and national levels. Efforts should be made to assist national and local authorities in exchanging information and in coordinating actions when documentation problems arise because of differences in practices or application of laws or regulations.

3.1 Activities relating to civil status and documentation



In our work we can

Assessment

(see Part III.1) 

- Assess and monitor problems related to civil status in statutory and customary law settings to identify systemic shortcomings and concerns as regards IDPs.

Contingency planning

- Support the authorities to develop a contingency plan that includes measures to safely store existing records, update registries, protect confidentiality and facilitate issuance of documents in emergency situations.

Advocacy

(see Part IV.3)



- Advocate with relevant authorities to ensure that internally displaced persons have access to civil status registration and documentation, including replacement documentation, without discrimination and without having to return to the area of origin or travel in or through insecure areas.
- Encourage the authorities to cancel or ease onerous administrative or other requirements and use flexible criteria and rules of evidence.

Technical advice and assistance to local and/or national authorities

(see Part IV.4)



- Provide advice to relevant authorities and make recommendations on ways to improve civil and legal status registration and documentation, in particular as it relates to displaced persons. Where needed, consider building local and/or national capacity by providing training or modest financial or material assistance or equipment to help the authorities to improve existing structures.
- Where existing structures are overwhelmed or mal-functioning, the authorities can be assisted to make temporary or mobile structures or arrangements to provide civil registration and documentation to internally displaced persons and other affected populations. As an example, in emergency situations temporary documentation can be provided. Such documentation should however not result in a delay in obtaining permanent documentation.
- On exceptional basis and following a careful review and assessment, support national authorities in providing displacement specific documentation to IDPs for specific purposes, such as to access certain assistance or services.

Legal aid and advice to IDPs

(see Part IV.5)



- Support and build the capacity of national lawyers, paralegals, NGOs and focal points within the IDP community that can provide legal and other advice and assistance related to civil status and documentation to displaced persons. This can involve creating or supporting a network of legal or paralegal aid centres.
- Accompanying people to documentation centres and intervening with officials in charge of registering civil status and delivering documents.
- Displaced persons may also need help to, for example, fill out forms, gather required documentation or alternative forms of evidence, and prepare and file complaints in court or administrative bodies.

Information and outreach

(see Part IV.6)



- Support national campaigns that inform people, in their own language, about civil status requirements, procedures and where documents can be obtained. Mobile teams can be used to facilitate access to isolated areas and IDPs with specific needs.
- Engage the IDP community in identifying documentation and related protection risks specific to certain groups. This can include unaccompanied or separated children, other IDP children, ethnic minorities, indigenous peoples and widows.

Community mobilization

(see Part IV.10)



- Work with the community to maximize complementarities between customary and statutory law and mechanisms. As an example, provide support to alternative community methods/practices, that conform with international human rights law, to resolve disputes related to identity, age, parentage and ownership.



Birth registration

- Advocate for and assist national and local authorities in ensuring that all children are registered at birth and provided with birth certificates. This can be done in various ways, including by providing advice, technical expertise, equipment and/or modest grants. Where birth registration has been delayed, arrangements must also be made to register older children.

Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org

3.2 Activities relating to the prevention of statelessness and the protection of stateless persons

All human rights and humanitarian actors can play a role in preventing and responding to statelessness. Such activities should, where possible, take place in consultation with UNHCR which is mandated to promote the prevention and reduction of statelessness and provide protection to stateless persons.¹ UNHCR can, upon request, provide legal, technical and operational expertise and advice to governments and partner organizations on ways to address statelessness.



In our work we can ...

Assessment
(see Part III.1)



- Ensure that protection assessments identify, where relevant, (i) individuals or groups who are stateless or are at risk of statelessness, (ii) the main causes for statelessness where it occurs, (iii) the main protection risks that result from statelessness, (iv) and any remedies or coping mechanisms that are already in place.

Coordination

- Ensure that protection working groups adequately address issues of nationality and statelessness where these arise. Where possible, inform and work with UNHCR, which has a mandate to promote prevention and reduction of statelessness and provide protection to stateless persons.

Legislation and administrative procedures

- Encourage, support or undertake a review of national laws, regulations, policies, procedures and practices to ensure that they adequately protect the right to acquire a nationality, including as regards protection against discriminatory deprivation, renunciation or loss of nationality.

Advocacy
(see Part IV.3)



- Following a review of national legislation, advocate with relevant authorities for the enactment, improvement or repeal of legislation to ensure that it adequately protects the right to nationality. UNHCR can offer technical guidance and support to authorities when preparing and implementing national legislation on statelessness.
- Where either the 1954 Convention relating to the Status of Stateless Persons, or the 1961 Convention on the Reduction of Statelessness have not been adopted by the State, or where their adoption has been accompanied by reservations, advocate for the adoption and implementation of these instruments or the lifting of reservations.

Assistance
(see Part IV.7)



- Ensure that stateless persons are not discriminated against in distribution of relief and that they have equal access to all assistance and services, including food and non-food items, education, and health-care that is provided to persons of concern.

¹ UNHCR’s mandate with regard to statelessness is based on Art. 11 CRS, read together with General Assembly resolutions and resolutions of the agency’s own Executive Committee, in particular ExCom Conclusion 106 on identification, prevention and reduction of statelessness and protection of stateless persons.

Interventions

- Take action where needed to ensure that stateless persons are not being harassed, discriminated against, arbitrarily arrested or detained, or otherwise placed at risk, due to their lack of nationality.

Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org

4. Key international legal principles

4.1 Registration and documentation

International (and regional) human rights law requires States to take all necessary measures to ensure the full, equal and effective enjoyment of all rights and freedoms, including the right to equal recognition of and protection before the law.² This requires the authorities to ensure that everyone, including internally displaced persons, have a legal identity as well as the means to prove their identity if necessary in order to exercise their rights, for instance through civil status documentation.

This obligation is further outlined in Principle 20 of the Guiding Principles. It requires States to facilitate the issuance of new documents or the replacement of documents lost during displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents. The list of documents includes those needed for the enjoyment of civil and political rights, such as protection against arbitrary arrest and detention, freedom of movement, and the right to vote, as well as economic, social and cultural rights, including education, adequate housing, and health care.

Even when IDPs are arbitrarily deprived of documents by non-state actors or private individuals, the State remains responsible for providing effective protection or safeguarding their rights.

Children are entitled to special protection and care under the law. All children should be registered immediately after birth and given a name. Where a child is illegally deprived of some or all of the elements of his or her identity, States should provide appropriate assistance and protection, with a view to speedily re-establishing that identity.³

Women have equal rights with men to recognition before the law and should be provided with documentation in their own name.⁴ Some conventions also specifically require State Parties to ensure registration of marriages in an official registry, in order to ensure that the equal rights of both parties are fully respected during and upon dissolution of marriage.⁵

International humanitarian law requires occupying powers to take all necessary steps to facilitate the identification of children and the registration of their parentage. In addition, all parties to a conflict should ensure that family or identity documents are not taken away from civilian detainees without a receipt being given. Deaths occurring during internment must be registered and death certificates issued.⁶

² See, at the international level, Arts. 6 and 7 of UDHR; Arts. 16 and 26 of ICCPR; Art. 15 of CEDAW; Art. 5(a) of ICERD; and Arts. 18 and 24 of CMW. At the regional level, see also Arts. 3 and 5 of AfCHPR and Arts. 3 and 8 of its Protocol on the Rights of Women in Africa; Arts. 3 and 24 of AmCHR; and Art. 18 of ArCHR. See also Principle 20 of the Guiding Principles on Internal Displacement. This right is generally considered to non-derogable. See e.g. Art. 4(2) of ICCPR and Art. 27(2) of AmCHR.

³ See e.g. at the international level, Art. 24 of ICCPR and Arts. 7 and 8 of CRC. At the regional level, Art. 6 of AfCRWC; Art. 18 of AmCHR and Art. 7 of the Covenant on the Rights of the Child in Islam.

⁴ This right is inherent in the non-discrimination provisions contained in most human rights instruments. See also Art. 4(2)(k) of the Protocol to the AfCHPR on the Rights of Women in Africa.

⁵ See e.g. Art. 16(2) of CEDAW; the 1963 Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages; Art. 21(2) of AfCRWC; and Art. 6(d) of the Protocol to the AfCHPR on the Rights of Women in Africa. See also GA Res 2018(XX) of 1 Nov 1965 on Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages.

⁶ See e.g. Arts. 50, 97(6) and 129 of the Fourth Geneva Convention.

4.2 Statelessness

4.2.1 Prevention of statelessness

International (and regional) human rights law guarantees everyone the right to a nationality, including the right to acquire, change and retain nationality, and the right to pass nationality on to one's children, without discrimination of any kind.⁷ Internally displaced persons should under no circumstances be deprived of, or prevented from acquiring a nationality, or from passing it on to their children, because they are displaced.

The granting or withdrawal of nationality is a sovereign act of States and, as such, is regulated by national law and regulations. The right to nationality however, requires States to take all appropriate steps, both internally and in cooperation with other States, to prevent and respond to statelessness and ensure that everyone has a nationality.

The 1961 Convention on the Reduction of Statelessness, which aims to prevent and reduce statelessness, also specifically requires States to refrain from arbitrarily denying or depriving individuals of their nationality; to ensure non-discrimination, due process and procedural guarantees when granting or withdrawing nationality; and to facilitate naturalization of stateless persons to the greatest extent possible.

Women are guaranteed equal rights with men in all matters related to nationality. Neither marriage nor divorce, or change or loss of nationality by the husband during marriage, should change or otherwise affect the nationality of the wife, render her stateless or force upon her the nationality of her husband.⁸

All **children** must be registered immediately upon birth and have the right to a name and a nationality. States must also take action to preserve the identity of the child, including nationality, name and family relations, and provide assistance and protection to re-establish identity where it has been lost.⁹ Some conventions specifically require States to grant children born in their territory nationality if they would otherwise be rendered stateless.¹⁰

4.2.2 Protection of stateless persons

Stateless persons are entitled to the full and effective enjoyment of human rights and freedoms. The only exceptions to this rule relate to the right to participate in government, which under the ICCPR can be limited to citizens of the State, and to some economic rights under the ICESCR, which allows developing States to determine to what extent such rights can be guaranteed to non-nationals.¹¹

The 1954 Convention relating to the Status of Stateless Persons specifically addresses some of the rights of stateless persons. It encourages States to accord stateless persons lawfully residing on their territory a standard of treatment comparable, in some instances, to that accorded to nationals of the State and, in other instances, to that accorded to nationals of a foreign country or aliens generally in the same circumstances. The Convention also

⁷ See Art. 15 of UDHR; Art. 24 of ICCPR; Art. 9 of CEDAW; Arts. 7 & 8 of CRC; Art. 5(d)(iii) of ICERD; Art. 29 of CMW; the 1954 Convention Relating to the Status of Stateless Persons; the 1961 Convention on the Reduction of Statelessness; and the 1957 Convention on the Nationality of Married Women. See also at the regional level, Art. 23 of AfCHPR and Art. 6(g) and (h) of its Protocol on the Rights of Women; Art. 6 of AfCRWC; Art. 18 and 20 of AmCHR; Art. XIX of AmDHR; Art. 24 of ArCHR; Art. 7 of Covenant on the Rights of the Child in Islam; and the 1997 European Convention on Nationality.

⁸ The equal rights of women and men are guaranteed in the non-discrimination provisions of most human rights instruments, such as Arts. 1, 2 and 7 of UDHR; Arts. 3 and 26 of ICCPR; Art. 2 of CRC; and generally in CEDAW. More specifically see Art. 9 of CEDAW; Arts. 1-3 of the Convention on the Nationality of Married Women; and the 1961 Convention on the Reduction of Statelessness.

⁹ Arts. 7(1) and 8 of CRC; Art. 24(2) of ICCPR; Art. 6 of AfCRWC; Art. 18 of AmCHR; and Art. 7 of the Covenant on the Rights of the Child in Islam.

¹⁰ See Art. 1 of the Convention on the Reduction of Statelessness; Art. 6(4) of AfCRWC; Art. 20 of AmCHR; and the European Convention on Nationality.

¹¹ Art. 2(3) of ICESCR and Art. 25 of ICCPR.

guarantees stateless persons the right to identity and travel documents, and protects them from expulsion, except on grounds of national security or public order.¹²

5. Key Actors

- **At the national/local level**, key actors include the ministry of interior, civil and administrative courts and tribunals, municipal agencies responsible for maintaining records and/or issuing documentation, civil society and NGOs, lawyer's associations, and displaced individuals and communities themselves.
- **At the international level**, key actors include UNHCR, which is mandated to promote prevention and reduction of statelessness and contribute to the protection of stateless persons; UNFPA, UNICEF, UNDP, OHCHR, the International Commission on Civil Status, the Hague Conference on Private International Law (HcCH) and NGOs such as Plan International.



Resources

Civil status and documentation

- *Birth Registration and Armed Conflict*, UNICEF, 2007. www.unicef-irc.org/publications/pdf/insight-br-eng.pdf
- *Implementation of the 1998 UN Guiding Principles on Internal Displacement in Domestic Law and Policy: Study on the Recovery of Personal Documentation*, by Foley, Nesse and McCallin, forthcoming in a manual on domestic laws and policies on internal displacement by the Brookings Institution-University of Bern Project on Internal Displacement and the American Society of International Law.
- *Guide pratique internationale de l'état civil*, Commission internationale de l'état civil, 2006. www.ciec1.org

Statelessness

- *The World's Stateless People: Q & A*, UNHCR, 2006. www.unhcr.org/statelessness
- *Refugees Magazine, Special Report: The Strange Hidden World of the Stateless*, No. 147, Issue 3, 2007: www.unhcr.org/statelessness
- *Nationality and Reduction of Statelessness: International, Regional and National Perspectives*, Refugee Survey Quarterly, Vol. 25, No. 3, 2006.
- *Nationality and Statelessness: A Handbook for Parliamentarians*, UNHCR/IPU, 2005. www.unhcr.org/statelessness
- *Women 2000 and Beyond: Women, Nationality and Citizenship*, UN Division for the Advancement of Women, June 2003. www.un.org/womenwatch/daw/public/jun03e.pdf
- *The Human Rights of Stateless Persons*, by Weissbrodt and Collins, in *Human Rights Quarterly*, Vol 28, Number 1, February 2006, pp. 245-276. www.press.jhu.edu/journals/human_rights_quarterly
- *Information and Accession Package: The 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention relating to the Reduction of Statelessness*, UNHCR, 1996, revised 1999. www.unhcr.org/statelessness



Useful websites

- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org/statelessness
- Commission internationale de l'état civil (CIEC): www.ciec1.org
- Hague Conference on Private International Law (HcCH): www.hcch.net
- Universal Birth Registration Database: <http://ssl.brookes.ac.uk/ubr/>

¹² Arts. 27, 28 and 31 of the Convention relating to the Status of Stateless Persons.

Action Sheet 3

Life, Safety and Security



Key message

Internally displaced persons and communities can face a range of serious threats to their life, safety and security at every stage of the displacement cycle. Such threats can stem from a variety of sources and include diverse actors depending on the context. It is primarily the role of the national authorities to provide protection against such threats and ensure that acts of crime, violence and abuse do not take place in a climate of impunity.

Human rights and humanitarian actors rarely have the mandate, the capacity or the resources to physically protect displaced individuals and communities from such threats. We can however contribute to their protection by helping to reduce their exposure to and mitigate the devastating effects of such violence whenever possible.

This Action Sheet, should be read together with Action Sheets V.4 on Gender-Based Violence and V.5 on children associated with armed forces and groups. It tries to provide guidance on ways to address three distinct but interrelated threats to life, safety and security:

- Threats resulting from a **breakdown of law and order**, including individual or collective acts of crime, violence and abuse.¹
- Threats arising in the context of **armed conflict**, i.e. at the hands of or as a result of the activities of armed forces and groups that are parties to the conflict.
- Threats arising as a result of **communal or intra-group tension**, either within the displaced population or between the displaced and the host population, for example, as a result of competition for scarce resources, such as land, water or firewood.²

Some key considerations

- Ensuring safety and security is **the responsibility of the State** and its institutions. It is important to engage with national and local authorities to the extent possible when seeking to identify, prevent and respond to security threats in order to ensure the sustainability and effectiveness of such actions.
- **Internally displaced persons and communities are themselves key protection actors.** They have an understanding of the local context and access to information and knowledge, which others may lack. They should be consulted and any existing coping mechanisms and strategies supported.
- **Sometimes the best protection strategy is to leave.** Even where measures are taken to enhance people's safety and security they retain the right to move elsewhere within the country or to leave the country and seek asylum abroad.

1. Protection from *crime, violence and abuse*

1.1 Overview

Forced displacement often takes place in situations characterized by a breakdown in the rule of law, where national or local authorities may lack the capacity, or the willingness, to maintain law and order and ensure the safety and security of displaced individuals and communities.

¹ In general, an act of violence, whether it takes place during conflict or not, can be defined as any act that inflicts physical, mental, sexual or other harm or suffering upon an individual or group, including threats of such acts, and that either results in or has the likelihood of resulting in injury, death, physical or mental disability, or deprivation.

² This list is not exhaustive and various other threats might need to be identified and addressed. This includes, for example, threats arising in the context of natural or environmental disasters, such as fires, draught, floods, earthquakes, landslides and pollution.

Together with other factors – such as armed conflict, the collapse of institutions and infrastructure, poverty, lack of education and livelihood opportunities, and a breakdown of social norms and values – this may lead to a marked increase in crime, exploitation and abuse in both the public and private spheres.

Internally displaced persons often bear the brunt of such violence. They have frequently lost the protective presence of their homes, families and communities and lack access to life-saving assistance and services, including food, shelter and basic health-care. As a result, they may find themselves at greater risk of such violence at the same time as their ability to recover from its harmful effects is undermined.

While such threats are common in both urban and rural environments, they can be particularly pronounced in large and over-crowded camps or settlements. Population density, poverty and sub-standard living conditions, combined with lack of effective law enforcement and access to justice can create fertile ground for crime, violence and abuse at the hands of internal and external actors. Such threats can range from minor offences, such as theft, robbery and vandalism, to serious violations of human rights, including rape, physical assault and killings.

The closed environment of camps and settlements coupled with anxiety and desperation stemming from trauma, marginalization and lack of hope, can contribute to an increase in the frequency and seriousness of such acts and undermine the coping mechanisms of individuals and communities as well as their ability to protect themselves.

Table 1: Examples of common threats to life, safety and security

<ul style="list-style-type: none"> • Murder; killings; assassination; forced disappearance; summary or arbitrary executions; physical assault or battering. • Torture or cruel, inhuman and degrading treatment and other outrages upon personal dignity; mutilation or maiming; corporal punishment. • Sexual and gender-based violence, including rape and sexual assault, abuse or humiliation; sexual exploitation, including forced prostitution and sex in exchange for aid; harmful traditional practices, such as female genital mutilation, forced and early pregnancy; and honour killings. 	<ul style="list-style-type: none"> • Abduction; kidnapping; enslavement: forced recruitment; forced labour; human trafficking; sexual slavery. • Forced displacement, forced return or relocation. • Harassment, intimidation and coercion. • Destruction of livelihoods and property, including land, fields, crops and livestock and other objects indispensable for people's survival; vandalism; and arson. • Theft; robbery; looting; cattle rustling; and fraudulent seizure/purchase of land or property. • Extortion; fraud; forgery; unlawful taxation; and paying of "protection" money. • Exploitation, obstruction or diversion of humanitarian assistance.
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1.2 International legal principles and the responsibility of the State

International (and regional) human rights law contains a number of provisions which are of particular relevance for internally displaced persons, including the rights to life, liberty and security; to freedom from torture and cruel, inhuman or degrading treatment or punishment; to freedom from slavery; to equal recognition and protection of the law; and to access to justice.

The State must ensure that all relevant authorities and agents of the State respect these rights, provide protection against violation of rights by any third parties, and ensure that individuals have access to appropriate remedies in case violations occur. To that effect, national authorities should take all appropriate legislative, administrative and executive measures to:

- Maintain law and order and strengthen civilian law enforcement, including through training and deployment of adequate numbers of civilian police, both female and male,

including in and around camps and settlements and other areas inhabited by displaced persons.

- Improve access to justice and strengthen formal and informal justice institutions and mechanisms in order to combat impunity, including by ensuring the prompt and thorough investigation and prosecution of alleged offenders.
- Build the capacity of individuals and communities to protect themselves and recover from crime, violence and abuse, including by facilitating their access to life-saving assistance and services which can reduce exposure to such threats, such as adequate shelter, livelihoods, and health care.

It is worth noting that the use of force and fire-arms for law enforcement purposes is strictly regulated under human rights law. It must be necessary and proportionate to achieve a legitimate aim, such as to make an arrest or protect the lives of civilians, and an official investigation must be conducted if it results in injury or loss of life. These and other rules are described in greater detail in the **UN Code of Conduct for Law Enforcement Officials** and the **UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials**.³

1.3. The role of human rights and humanitarian actors

While human rights and humanitarian actors rarely have the mandate, the capacity or the resources to guarantee protection against crime, violence and abuse, they can assist national authorities and persons of concern to reduce exposure to and limit the adverse effects of such acts. Such efforts should seek to address the political and socio-economic causes and consequences of crime as well as crime itself. In order to ensure the sustainability of such efforts close coordination with national authorities and displaced and resident communities will be required.



In our work we can ...

Assessment and analysis

(See Part III.1)



- Ensure that protection assessments take into account the various threats to life, safety and security of displaced persons stemming from crime, violence and abuse. Where possible such assessments should be conducted in cooperation with security and/or law enforcement experts. It could, for instance, assess factors such as: (i) the types of threat; (ii) those that are most at risk; (iii) the actors involved and their motives; (iv) any aggravating factors or conditions; (v) the capacity of the State to address the risks, any obstacles encountered and the kind of support needed; (vi) the impact on persons of concern, their coping strategies and the kind of support they need to counter the risks involved; (vii) and any possible negative unintended consequences that might result from our intervention.

Advocacy

(See Part IV.3)



- Advocate with all relevant stakeholders, including law enforcement agencies and Ministries of Justice and the Interior, for adequate numbers of trained and professional civilian police, including female officers, to be deployed in camps, settlements and other civilian areas.






Information and communication activities

(See Part IV.6)









- Support information and education campaigns/networks, whether through radio, theatre or printed media (leaflets, posters, etc.) that provide neutral security-related information and advice. Such networks should ideally be run by the community, allow information from more than one source, take illiteracy and disabilities into account, and include safeguards for manipulation for political or military purposes. ►►

³ These are available from www.ohchr.org/english/law/index.htm

<p>Material, technical and financial support</p>	<ul style="list-style-type: none"> Consider providing material, technical or financial support to law-enforcement agencies and relevant ministries if appropriate. This can, for instance, include material support (e.g. office space or equipment, telecommunications equipment, vehicles, or fuel), managerial support (planning, coordination), or financial support (staff incentives).
<p>Training</p>	<ul style="list-style-type: none"> Provide or support training relating to human rights, codes of conduct for law-enforcement officials, and principles of effective policing to police and other security personnel. Consider whether other stakeholders could benefit from similar training initiatives.
<p>Reporting mechanisms</p>	<ul style="list-style-type: none"> Support the establishment of adequate reporting and referral mechanisms for incidents of crime, violence and human rights abuses. Such mechanisms should preferably be run by national law enforcement authorities. In some cases, however, such mechanisms may need to be established by human rights or humanitarian actors, for instance within camps and settlements. Such mechanisms must respect privacy and confidentiality and be adequately supervised and monitored. Ensure that the informed consent of victims/witnesses is sought prior to sharing of information, that their safety is guaranteed, and that they are referred to appropriate actors for legal, medical or other assistance, as required.
<p>Access to justice (See Parts V.9 and IV.5)</p> 	<ul style="list-style-type: none"> Improve access to and fair administration of justice by building the capacity of both formal and informal justice mechanisms and the capacity of individuals and communities to access and benefit from such mechanisms. This can, for instance, include material support (office space or equipment, telecommunications, vehicles, fuel, staff incentives), managerial support (planning, coordination), or training (human rights, standards of professional conduct).
<p>Community mobilization (See Part IV.10)</p> 	<ul style="list-style-type: none"> Working with the community, identify various ways to strengthen the protection capacity of individuals, communities and civil society to prevent, respond to and recover from violence, for instance through training, counselling and/or material support. This could include training on human rights and humanitarian principles and other topics, such as first aid, crime prevention, fire-fighting, mine-awareness, conflict resolution, and community relations. Pay particular attention to individuals and groups with specific needs, including single women and girls, older persons and minorities.
<p>Family unity (See Part V.8)</p> 	<ul style="list-style-type: none"> Ensure that any separated family members are identified, that family tracing and reunification mechanisms are established, and that immediate needs for protection and/or assistance are addressed. In the case of separated and unaccompanied children, best interests determination may need to be conducted and alternative care arrangements identified.
<p>IDP community or camp management (See Parts IV.7 and IV.12)</p> 	<ul style="list-style-type: none"> Ensure that community and camp-management committees, including relief-distribution committees, are non-discriminatory, participatory and representative. Adequate safeguards against manipulation, misuse and diversion of aid to political or military forces or groups must be put in place. Camp rules should be drafted and disseminated by the committees in cooperation with camp-management authorities.
<p>Community-watch systems (See Annex to this chapter)</p> 	<ul style="list-style-type: none"> Assist the community in organizing and managing, in cooperation with the police when feasible, community-watch mechanisms, as described in Annex 1 to this chapter. These must be civilian in character, include both women and men, and should receive adequate training in basic principles of law enforcement. They should be adequately supervised, monitored and equipped.



<p>Presence (See Part IV.2)</p> 	<ul style="list-style-type: none"> • Maintain high visibility presence in and around IDP camps, settlements and hosting areas, if security conditions permit. Beware, however, that in some cases presence can instil a false sense of safety and security among persons of concern and/or attract unwanted attention to them.
<p>Protection-based physical planning (See Part V.13)</p> 	<ul style="list-style-type: none"> • Ensure that camps, settlements and IDP-hosting areas conform, to the extent possible, with the principles of protection-based physical planning as regards site-selection, layout, and distribution of aid and design of services. This includes, for example, ensuring adequate distance from armed conflict or other sources of violence; security lighting; community participation in family-plot layout; allocation of adequate space per family; safe access to resources, such as food, water and firewood, and services, such as police, camp-management offices, sanitation facilities, schools, markets and community centres; and establishment of child-friendly spaces. Work together with partners to ensure that gender, age and disabilities are taken into consideration.
<p>Relief assistance (See Part IV.7)</p> 	<ul style="list-style-type: none"> • Advocate for or provide assistance and services which can reduce exposure to or mitigate the effects of crime, violence and abuse. This can, for instance, include food, firewood, fuel-efficient stoves, and various non-food items, particularly if IDPs are exposed to risks when acquiring such items by other means. • Ensure that relief distribution does not create or expose IDPs to additional risks. It should take place in a safe environment and must be distributed equitably and in a non-discriminatory manner. It should also take into account and address the specific needs of women, children, older persons and those living with disabilities, as well as the needs of the surrounding communities.
<p>Education and socio-economic activities (See Parts V.16 and V.17)</p> 	<ul style="list-style-type: none"> • Support socio-economic initiatives, such as education or vocational training and cultural, religious and sports activities. This can help to limit exposure to various threats, reduce resort to violence within communities, help individuals recover from the effects of violence, and contribute to sustainable livelihoods.
<p>Evacuation or relocation (See Part IV.9)</p> 	<ul style="list-style-type: none"> • Where necessary, facilitate the evacuation or relocation of certain individuals or groups (e.g. victims, witnesses or others at risk) to a place where their physical safety can be guaranteed. Evacuation or relocation are usually measures of last resort and minimum standards of safety, food, health, and shelter must be met both during and after it takes place. It is often a temporary security measure and should not delay the search for a sustainable solution
<p>Health and psycho-social support (See Parts V.14 and IV. 11)</p> 	<ul style="list-style-type: none"> • Ensure that victims/survivors of crime, violence and abuse have access to adequate health care and other services. This should include physical, mental and reproductive health care and psycho-social support for people dealing with the effects of violence, including trauma and post-traumatic stress disorders.
<p>Do you have suggestions about activities or field practices? Share them with us at hqidphb@unhcr.org</p>	


2. Protection from the *effects of armed conflict* and activities of parties to a conflict

2.1 Overview

Forced displacement is not only a regrettable consequence of armed conflict. It is frequently the result of a deliberate strategy aimed at terrorizing, humiliating and destroying individuals


and communities. As such it has become both a method of warfare as well as, in some cases, the very objective of conflict itself. The impact upon individuals and communities has been devastating. An estimated 25 million persons are currently internally displaced as a result of armed conflict and civilian casualties of conflict in general outnumber those among military actors by almost four to one.

Violence against civilians at the hands of armed forces and groups is often widespread, systematic and conducted in a climate of impunity. This includes, for example:

- **Direct or indiscriminate attacks against civilians or civilian property** and other unlawful means and methods of warfare, including forced displacement, mass rape, acts of terror, starvation and destruction of land, homes and other property, such as crops and livestock.
- **Ill-treatment of civilians or those placed *hors de combat*** in the power of parties to the conflict, including murder, torture and other ill-treatment, sexual assault, rape and sexual humiliation, arbitrary arrest and detention, extra-judicial killings and disappearances, extortion, harassment, confiscation of documents, and appropriation of land and property. Such acts might take place in areas of refuge or transit, including in and around camps and settlements, in detention or prison facilities, at checkpoints, or entry/exit points into towns and villages.
- **Presence of armed actors/groups in camps, settlements and IDP-hosting areas**, including their use for rest, recruitment and/or resources, negates the humanitarian character of these areas and poses a serious threat to their residents, host communities and humanitarian workers. The presence of armed actors frequently results in an increase in forced recruitment, sexual assault and exploitation, various forms of physical violence, murder, torture and ill-treatment, harassment, extortion, theft and destruction of property, and diversion of humanitarian aid. It might also expose the civilian population to attack and a range of punitive measures by other parties to the conflict, including restrictions on freedom of movement and access to humanitarian aid.
- **Forced recruitment into armed forces or groups**, particularly of children and adolescents who might be forced to participate in hostilities or serve as sex slaves, spies, porters, cleaners or cooks. Such children are often compelled to witness or commit acts that might leave them traumatized and hinder their reintegration into society upon release (see Part V.5). 


2.2 International law and the responsibilities of parties to a conflict

International humanitarian and human rights law, together with national law, provide a comprehensive legal framework governing the conduct of hostilities and the treatment of civilians in times of armed conflict.


See **Principles 10 and 11 of the Guiding Principles on Internal Displacement**, which are reprinted in Annex 1. For further information see Part I.2. 

International humanitarian law, which applies to State and non-State actors equally, comes into effect in times of armed conflict. While different legal provisions may apply depending on whether the conflict is international (between States) or non-international (between a State and non-State actors, or between such actors), the basic principles regarding the protection of civilians remain similar.⁴ The law contains two sets of rules of particular importance to civilians, including internally displaced persons:

⁴ These are primarily based on customary law as well as the four Geneva Conventions and Additional Protocol I, which apply in international armed conflict, and Additional Protocol II, which together with Common Article 3 of the Conventions, apply in non-international conflict.

- **Rules limiting the means and methods of warfare** which prohibit direct or indiscriminate attacks against civilians and civilian objectives and require parties to a conflict to distinguish at all times between combatants/fighters and civilians.⁵ (See Part 1.2) 
- **Rules containing fundamental guarantees of humane treatment** which oblige parties to a conflict to treat all persons who do not or have ceased to take part in hostilities in a humane manner and to protect them against violence to life, health and physical or mental wellbeing.⁶

All parties to a conflict, both State and non-State actors, are obliged at all times to distinguish between civilians and combatants/fighters and to respect the humanitarian nature of camps, settlements and other IDP-hosting areas. This entails taking all feasible measures to protect such areas from direct attack and the indiscriminate effects of military operations, and to treat individuals in their power humanely. The State, including its armed forces, and armed groups have an obligation to ensure that military activities and the activities of members of the armed forces, whether on active duty or not, respect humanitarian law and principles relating to protection of civilians, including by:

- Providing training on humanitarian law to the armed forces
- Criminalizing violations of the law and establishing adequate legal, administrative and disciplinary structures to prevent, monitor and punish violations.
- Prosecuting and punishing, or extraditing upon request, those responsible for serious violations of the law. The obligation to prosecute and punish is further strengthened by **international criminal law**, which covers acts such as war crimes, crimes against humanity and genocide (see Part 1.2.3). 

International (and regional) human rights law continues to apply in times of armed conflict and the national authorities should continue to respect the rights outlined in section 1.2 above. While the State can lawfully derogate from some human rights during times of war or public emergency, such derogation is subject to strict conditions. Moreover, the rights mentioned above are non-derogable, meaning that they must be respected at all times, including during armed conflict. The obligation to respect human rights can also extend to armed groups in control of territory, particularly if they exercise State-like functions. Such groups have in some cases expressly agreed to respect human rights.

2.3 Role of human rights and humanitarian actors

Armed conflict poses a unique set of challenges to humanitarian operations. An effective response will in most cases require a coordinated approach, involving not only human rights, humanitarian and developmental actors but also political and military actors at the national, regional, and international level. In most cases it is recommended that protection strategies and activities are coordinated with relevant security staff and with other stakeholders, including the UN Humanitarian Coordinator in the country as well as peace-keeping missions, where present.

In the initial stage protection efforts often focus primarily on building the capacity of national authorities as well as that of displaced individuals and communities (see the table below).

⁵ Prohibited acts include direct and indiscriminate attacks against civilians or their settlements; use of civilians to shield military objectives from attack or to shield, favour or impede military operations; displacement of civilian populations; acts of violence intended to spread terror; starvation of the civilian population as a method of warfare and of attacking, destroying, removing or rendering useless objects indispensable for its survival; reprisals against civilians or their property and collective punishments, which, in practice, often take the form of destruction of property, leading to displacement. The law also prohibits the use of means and methods of warfare that cause superfluous injury or unnecessary suffering, or that cause widespread, long-term and severe damage to the natural environment or that jeopardize the health or survival of the population. This includes exploding bullets, chemical and biological weapons, blinding laser weapons and anti-personnel mines.

⁶ This includes murder, mutilation, torture and cruel, humiliating or degrading treatment; rape, enforced prostitution and any form of indecent assault; and forced recruitment of children and slavery in all its forms, including sexual slavery, exploitation and abuse.

Where such efforts prove insufficient other responses may need to be considered. In some cases, this may require advocacy and support for peace negotiations and agreements, the deployment of regional or international civilian or police monitors, or referral to relevant political bodies, such as the UN Security Council.⁷



In our work we can ...

Early warning and contingency planning

- Work with security staff to establish early-warning and preparedness mechanisms aimed at identifying and responding to potential security threats, including military operations and the infiltration of armed elements into camps, settlements and other IDP-hosting areas.

Advocacy (See Parts IV.3 and II 2)



- Work with civil-military liaison officers to establish direct lines of communication with armed forces and armed groups to advocate for respect of relevant humanitarian principles, to explain the humanitarian mandate and the need to maintain a clear distinction between civilian and humanitarian action and military operations. Insist that IDP camps and settlements are kept free of infiltration and are not used for recruitment or material and political support.

Preventing militarization of civilian areas

- Work with the community and other partners to prevent the militarization of camps, settlements and other IDP-hosting areas. This may, for instance, include (i) using information and communication campaigns or other activities to sensitize the community of the negative impact of militarization; (ii) discussing with the community what measures can help improve their security; and (iii) ensuring that IDP camps and settlements are located away from areas of conflict, or areas known to be inherently unstable or suffering from endemic violence.

Access to justice (See Part V.10)







- Advocate with the State, and where possible non-State actors, for measures to end impunity, including prompt and effective investigation, prosecution and punishment of violations of humanitarian and human rights law and national military codes. Acts that amount to war crimes, crimes against humanity or genocide, and other serious violations of the law require special attention.

Identification, neutralization and separation of armed elements

- Where appropriate, advocate for the establishment of security mechanisms to prevent infiltration by armed forces or groups into civilian camps and settlements. Such mechanisms can, depending on the circumstances, include (i) screening at the entry to and inside camps and settlements, or when accessing assistance or services; (ii) encouraging self-identification of combatants/fighters and voluntary separation from the civilian population; and (iii) spot-checks, weapons searches, and, on an exceptional basis, physical separation of such individuals from the civilian population.
- The involvement of human rights and humanitarian actors in such activities must be carefully evaluated and cleared at the senior level.

⁷ In the context of its work with refugees UNHCR has developed a 'ladder of options' composed of soft, medium and hard approaches. The soft approach involves preventive measures, where international organizations provide support to the State to maintain safety and security; the medium approach involves the use of the international civilian or police monitors who provide technical expertise and support to local authorities, through training, mentoring and monitoring; while the hard approach involves the direct use of international peace-keeping or peace-building forces, authorized by the UN Security Council, to maintain safety and security.

<p>Forced recruitment</p>	<ul style="list-style-type: none"> • Advocate and take other measures to prevent forced recruitment and use of children by armed groups. • Where children have been or are being recruited, work with specialized partners to secure their release from armed forces and/or groups. Such efforts do not have to form part of a formal disarmament, demobilization and reintegration (DDR) process, but should be pursued at all times.
<p>Demobilization, disarmament, reintegration (See Part V.5)</p> 	<ul style="list-style-type: none"> • DDR programmes should be coordinated and implemented by specialized actors with the required expertise and resources. Human rights and humanitarian actors can however support such programmes, for instance by, (i) advocating for the establishment and adequate funding of DDR programmes where needed; (ii) advocating to ensure that such programmes are available to and meet the needs of women and girls on equal basis with those of men and boys; (iii) working with families and communities to encourage them to accept and prepare for the return and reintegration of former combatants, particularly children formerly associated with armed groups; (iv) assisting families of former combatants to reunite; and (v) and ensuring that former combatants have equal access to programmes that provide psycho-social support, education, vocational training or micro-financing for small businesses.
<p>Mine Action (See Part V.6)</p> 	<ul style="list-style-type: none"> • Advocate for and support mine action activities in all mine affected areas. Mine action should be coordinated and implemented by specialized actors, such as UNMAS, that have the required expertise and resources. All human rights and humanitarian actors can however support such activities, for example by: (i) working with specialized actors to identify mine-affected civilian areas, including displaced camps and settlements, public buildings or spaces, fields, water-points, schools and kindergartens; (ii) providing financial or material support to mine action programmes/actors, for instance in the form of fuel, vehicles and other equipment; and (iii) including mine awareness and education in school curricula and other educational or training activities.
<p>Working with armed forces (See Part II.2)</p> 	<ul style="list-style-type: none"> • Peacekeeping-forces and/or national armed forces can, on an exceptional basis and as a last resort, provide security to humanitarian operations, for instance by providing logistical or technical support or escorting relief convoys. Such support must be carefully evaluated and cleared at the senior level, as it may risk blurring the distinction between humanitarian and military action and undermine the actual or perceived independence, impartiality and neutrality of the former. The presence of military forces can also expose communities to attack or create other security risks, such as exposure to sexual abuse.
<p>Safe days or route, and humanitarian zones (See Part IV.2)</p> 	<ul style="list-style-type: none"> • On exceptional basis and as a last resort consider the possibility of encouraging relevant actors to negotiate 'safe routes' or 'safe days' to facilitate the delivery of life-saving assistance or services to populations in need. In extreme cases, this can also include the establishment of humanitarian zones (through humanitarian negotiations with parties to a conflict or by an agreement among the latter) or security zones (secured by force). Such negotiations should only take place at the senior level following a careful assessment and clearance by experienced security staff and with the agreement of the Humanitarian Coordinator. Such arrangements can and in the past have failed to protect civilian populations, instead exposing them to serious threats.
<p>Do you have suggestions about activities or field practices? Share them with us at hqidphb@unhcr.org</p>	

3. Preventing and responding to *inter- and intra-community tensions*

3.1 Overview

Whether internally displaced persons find refuge in camps, rural or urban settlements or within existing communities, their protection and coping mechanisms will, to a large extent, depend on their relationship with the surrounding communities. Conflict between displaced and host communities can arise for a number of reasons. Where ethnic, racial or political tension has been at the root of the displacement, this will be perpetuated on both national and communal levels during displacement.

Even without underlying inter-communal tensions, potential sources of conflict are numerous. The disorderly movement or arrival of large numbers of people in itself is likely to cause upheaval. Large-scale movements and settlement of pastoralists with their cattle have caused clashes in the past. If the new arrivals are fleeing from armed conflict, host communities, including previously settled IDPs, might fear military incursions or reprisals, or more insecurity and criminality.

The most common source of tension between displaced and host communities relates to the competition over scarce resources, such as land, water, food and firewood. Host communities are often concerned about depletion of already scarce resources and may feel compelled to protect their livelihoods and the long-term sustainability of their communities. While such issues might not be apparent at the earlier stages of a displacement crisis, the potential for tension and conflict often increases with time.

Tensions can also arise as a result of actual or perceived discriminatory or preferential treatment. As an example, singling displaced individuals and communities out for humanitarian assistance and services, while neglecting the needs of the host community, is likely to result in increased tension and hostility. Similar tensions may arise between different communities or groups of displaced persons, for instance if assistance is only provided to those who have recently been displaced.

3.2 The role of human rights and humanitarian actors



In our work we can ...

Assessment and analysis

(See Part III.1)



- Ensure that all assessments take into account the protection and assistance needs of both the displaced and the resident community on an equal basis. Humanitarian efforts must be based on an objective assessment of the needs of persons of concern, without discrimination of any kind. Where possible, include representatives of both communities in assessments and try to identify any potential sources of tension as well as areas of common interest between the communities.

Information and communication activities

(See Part IV.6)



- Help establish open and transparent channels of communication and dialogue between the displaced and the host community. This can, for instance, include various cultural and social activities and exchanges or joint councils or committees that bring together representatives of both communities to discuss and resolve matters of mutual interest and concern.
- Support information campaigns and other activities that provide culturally sensitive information to both communities about ways to minimize the adverse effects of displacement and facilitate the peaceful co-existence and integration of displaced persons in areas of displacement.



<p>Confidence-building measures</p>	<ul style="list-style-type: none"> • Make efforts to build understanding and confidence between the displaced and host communities. This can, for instance, be done by highlighting the positive impact that the presence of IDPs can have for the host community, such as in terms of improved access to assistance and services.
<p>Access to assistance and services (See Part IV.7)</p> 	<ul style="list-style-type: none"> • Ensure, wherever possible, that the displaced and host communities have full and equal access to humanitarian assistance and services, including water, food, education and health care. A comprehensive and integrated approach to assistance and services, based on an objective assessment of humanitarian needs, is essential and can help reduce tension between the communities. Make every effort to avoid giving the impression that assistance is provided in a discriminatory way or that displaced persons are receiving preferential treatment. • Support and help improve local infrastructure and services, such as schools and health clinics, and avoid creating parallel structures for IDPs wherever possible. This may also include improving roads, bridges, water and sewage systems, communication systems, and other infrastructure that can benefit both populations.
<p>Conflict prevention, mediation and resolution</p>	<ul style="list-style-type: none"> • Support the establishment of complaint and conflict resolution methods/mechanisms, including representatives of both communities, to address and resolve any disputes that may arise. Such mechanisms, which should include both women and men of different ages and backgrounds, can be developed with modest material support, for instance in the form of meeting space, transport and/or refreshments during meetings. • Such mechanisms should be encouraged to pay particular attention to and address any disputes that may arise over the use of land and other resources at an early stage.
<p>Law enforcement</p>	<ul style="list-style-type: none"> • Encourage relevant authorities, such as police and other law enforcement agencies, to take action to prevent and respond to any potential increase in crime, violence and abuse. This can include various forms of police-community initiatives and crime prevention strategies. • Where relevant, ensure that the displaced community is informed of any laws or regulations that may apply, such as on the use of land or collection of water and firewood.
<p>Protection of the environment</p>	<ul style="list-style-type: none"> • Make every effort to protect the environment. Work with the displaced and residential communities to prevent and respond to pollution, depletion of natural resources such as water and firewood, and over-grazing or use of land. As an example, help to identify and negotiate for the allocation of alternative land to displaced communities and support programmes that protect and restore natural resources and habitats, such as water preservation and/or reforestation programmes. • Ensure that environmental concerns are taken into account when planning, implementing, monitoring and evaluating humanitarian programmes and projects, including in particular those relating to shelter, water and sanitation, and early recovery.
<p>Firewood collection</p>	<ul style="list-style-type: none"> • Provide environment-friendly cooking/heating fuel and/or methods (such as fuel-efficient stoves) in order to minimize environmental damage and prevent disputes over firewood from arising.

Do you have suggestions about activities or field practices? Share them with us at hqidphb@unhcr.org



4. Key actors

- At the **national level**, key actors include internally displaced and host communities; ministries of justice, defence and the interior; law-enforcement agencies; courts and other justice institutions; prison authorities; armed forces; human rights commissions and ombudsmen; parliamentary commissions and committees that legislate on or maintain oversight over armed forces or law-enforcement agencies; civil society organizations and NGOs.
- At the **regional level**, key actors include any regional military and civilian peacekeeping forces; regional organizations, such as the African Union, the European Union, Economic Community of West African States, the Organization for Security and Cooperation in Europe; regional human rights commissions and courts; governments of neighbouring States, influential states in the region, and donor states.
- At the **international level**, key actors include any UN military and civilian peacekeeping forces; staff of the UN security-management system; security/protection staff of individual organizations and NGOs; UN Security Council; ICRC; UNICEF (particularly relating to disarmament, demobilization and reintegration of child soldiers); UN Mine Action Service; International Criminal Court (ICC); UN treaty bodies and special procedures.



References

- Camp Management Toolkit, Norwegian Refugee Council, 2nd edition, forthcoming in 2008.
- Civil-Military Relationship in Complex Emergencies: An IASC Reference Paper, IASC, 2004.
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- Guidelines on the Use of Military and Civil Defence Assets to Support United Nations Humanitarian Activities in Complex Emergencies, Inter-agency Standing Committee, 2003.
- Inter-organizational Security Measure: Framework for Accountability for the United Nations Security Management System, 2002.
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- Working with the Military, UNHCR, 2007. www.refworld.org

Annex 1

Community Watch Mechanisms

Introduction	While primary responsibility rests squarely with the State, individuals and communities can also play an important role in enhancing safety and security. Community watch mechanisms (CWM) can – if adequately trained, equipped and supervised – help reduce the levels of crime, violence and abuse within the community. This note summarises some good practice relating to the establishment and running of CWM. It should be noted however that CWM should generally not be used in highly politicized or militarized settings owing to the risk such mechanisms can pose to individuals and communities that participate in them.
Definition and overall aim	CWM can be defined as mechanisms that are organized and staffed by members of the community with the aim of supporting civilian law enforcement through a police-community partnership. Such mechanisms have particular value where police and security forces are absent, overwhelmed, or otherwise lack the capacity to maintain law and order. In addition, they can play an important role in identifying risk factors and addressing minor disputes, tensions, and conflict within the community, especially in camp settings.
Roles and responsibilities	CWM can be assigned different roles and responsibilities depending on the context and while no one model will fit all, common functions have included: patrolling; providing protection through presence; monitoring and reporting; assisting victims and survivors to seek assistance and report crime; registering complaints and mediating minor disputes; protecting community property from theft, sabotage, or fire; assisting with crowd control, for instance during relief distribution; and liaising between the community and police or camp authorities.
Not police forces	It is important to note that CWM are neither part of nor substitute to effective law enforcement and their members should under no circumstances carry arms or be authorized to perform police related functions, such as arresting, detaining or interrogating suspects or interviewing victims and witnesses. They should be entirely civilian in character, have no established links with armed forces or actors, and be closely supervised by relevant authorities as well as the community.
Key considerations and lessons learned	<p>Some of the lessons learned from previous experience with CWM projects include:</p> <ul style="list-style-type: none"> • Proper consultation and cooperation with local and other relevant authorities, including police, military and camp management authorities, must be ensured. CWM should be established with the consent and under the supervision of relevant authorities, which retain primary responsibility for safety and security. • CWM should be participatory, representative and include men and women of different ages and ethnic or religious background, chosen by the community through a fair, open and transparent process. • Roles, responsibilities and reporting lines must be clearly delineated in a written memorandum of understanding between relevant stakeholders and a code of conduct agreed upon. • Adequate supervisory, monitoring and disciplinary systems must be put in place, including safeguards against corruption and abuse of power, such as diversion of aid and sexual exploitation and abuse. • Adequate equipment must be provided, which may include support in the form of identity documents; office space or equipment; communication equipment such as phones or radios; clothing and footwear, including uniforms, rain coats and patrol boots; flashlights; whistles; bicycles or vehicles/fuel; and in some cases, modest financial incentives.



- **Training** in human rights and humanitarian law, as well as professional conduct and basic principles of community policing, must take place.
- While nominated by the community participants may need to be **vetted by relevant authorities**. To minimize the risk of corruption and enable greater number of individuals to benefit from the project, terms of service should be limited to 12-18 months, made subject to regular but not too frequent rotation. Particularly talented participants can be retained for training or supervisory functions.
- CWM must be entirely **civilian in character and prohibited from carrying arms**. Every effort must be made to ensure that such mechanisms neither act nor present themselves as law enforcement agents, do not become militarized or establish links with military groups or militias.

Further information

'A Comparative Review of Refugee Security Mechanisms' (UNHCR, ESS/EPAU, Dec 2004); 'Preserving the Civilian Character of Refugee Camps: Lessons from the Kigoma Refugee Programme in Tanzania' (Jean-François Durieux, Track Two, Vol. 9, No. 3, Nov. 2000).

Action Sheet 4

Gender-based Violence



Key message

Gender-based violence (GBV)¹ is a grave human rights violation that can cause long-term and life-threatening injury and trauma to victims/survivors. All human rights and humanitarian actors must ensure that efforts are made from the onset of an emergency to prevent and respond to acts of gender-based violence and provide adequate care, treatment and support to its victims/survivors.

The **IASC Guidelines on Gender-Based Violence Interventions in Humanitarian Settings** provide guidance on minimum prevention and response in all sectors in emergencies. They are available at www.humanitarianinfo.org/iasc/gender. This Action Sheet provides basic guidance but does not replace or duplicate the Guidelines, which should be used and implemented in all operations.

1. Gender-based violence in situations of internal displacement

Acts of gender-based violence are among the most common forms of violence in many countries and are estimated to affect the lives, health and wellbeing of millions of women, girls, boys and men worldwide. Gender-based violence takes place in all societies and all cultures. The conditions that often characterize forced displacement, including conflict, breakdown of the rule of law, and collapse of family and community structures, tend to increase both the frequency and the brutality of such violence.

1.1 What is gender-based violence?

Gender-based violence is defined as violence that is directed against a person on the basis of their gender or sex,² including acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. It includes physical, sexual and psychological violence perpetrated or condoned within the family, the general community or by the State and its institutions.³ Such violence can take many different forms:

Overview of types of gender-based violence	
<i>Sexual violence</i>	Includes actual, attempted or threatened (vaginal, anal or oral) rape, including marital rape; sexual abuse and exploitation; forced prostitution; transactional/survival sex; and sexual harassment, intimidation and humiliation.
<i>Physical violence</i>	Includes actual, attempted or threatened physical assault or battery; slavery and slave-like practices; and trafficking.
<i>Emotional and psychological violence</i>	Includes abuse and humiliation, such as insults; cruel and degrading treatment; compelling a person to engage in humiliating acts; and placing restrictions on liberty and freedom of movement.

¹ The term gender-based violence (GBV) is used throughout this Handbook. The terms sexual and gender-based violence (SGBV) and violence against women may be used in other contexts. Despite differences in terminology the strategies and activities used to prevent and respond to such violence are similar.

² The term sex refers to biologically determined and fixed differences between males and females while 'gender' refers to social differences, that are learned, that can change over time, and that can vary widely both within and between cultures. Gender is a socio-economic, cultural and political variable that can be used to analyze roles, responsibilities, constraints, opportunities and needs of women and men in different contexts.

³ Based on UNGA **Declaration on the Elimination of Violence Against Women**, Arts. 1&2, A/RES/48/104 of 20 Dec 1993.


<i>Harmful traditional practices</i>	Include female genital mutilation/cutting (FGM/C); forced marriage; child marriage; honour or dowry killings or maiming; infanticide, sex-selective abortion practices; sex-selective neglect and abuse; and denial of education and economic opportunities for women and girls.
<i>Socio-economic violence</i>	Includes discrimination and denial of opportunities or services on the basis of sex, gender, or sexual orientation; social exclusion; obstructive legal practices, such as denial of the exercise and enjoyment of civil, social, economic, cultural and political rights, mainly to women and girls.

1.2 What are the main causes of GBV?

Gender-based violence is deeply rooted in discriminatory cultural beliefs and attitudes that perpetuate inequality and powerlessness, in particular of women and girls. Various other factors, such as poverty, lack of education and livelihood opportunities, and impunity for crime and abuse, also tend to contribute to and reinforce a culture of violence and discrimination based on gender.

Such factors are frequently aggravated in times of conflict and displacement as the rule of law is eroded and families and societies are torn apart. The result is often an increase in both the frequency and brutality of gender-based violence. In its worst form, gender-based violence has become a weapon of war, intentionally directed against and aimed at terrorizing, displacing and destroying certain communities or ethnic groups.

Combating gender-based violence requires an **understanding of its causes and contributing factors, which often also serve as barriers to effective prevention and response:**

Causes	Common barriers to prevention and response
Physical factors	<ul style="list-style-type: none"> • Lack of physical security owing to break-down of law and order, presence of armed forces/groups, collapse of law enforcement, justice institutions and family, social or community structures. Women and girls are particularly vulnerable when leaving their communities in search of work, food, water and/or firewood. • Poverty, lack of education and livelihood opportunities, and inadequate access to shelter, food, water, fuel, and income generation can increase exposure to GBV, including forced prostitution or survival sex.
Social / cultural / political factors	<ul style="list-style-type: none"> • Discriminatory social, cultural or religious laws, norms and practices that marginalize women and girls and fail to respect their rights. • Collapse of family, social and communal structures and disrupted roles within the family often expose women and girls to risk and limit coping mechanisms and avenues for protection and redress. • Lack of confidence and/or trust in social or public institutions, including law enforcement and justice institutions that discourage victims/survivors from seeking redress.
Judicial barriers	<ul style="list-style-type: none"> • Lack of access to justice institutions and mechanisms, resulting in culture of impunity for violence and abuse (<i>see Part V.10</i>).  • Lack of adequate and affordable legal advice and representation. • Lack of adequate victim/survivor and witness protection mechanisms. • Inadequate legal framework, including national, traditional, customary and religious law, that discriminate against women and girls, fails to guarantee their rights, or exposes them to further harm and abuse. As an example, national law may fail to guarantee a certain right (e.g. non-discrimination), fail to criminalize certain

	acts (e.g. rape), or narrowly interpret them (e.g. rape defined as not including marital rape). In some cases, national law also criminalizes the victim (e.g. rape defined as adultery) or criminalizes acts that allegedly are primarily associated with women (e.g. witchcraft or sorcery). In some cases, the victim/survivor faces harassment, intimidation and/or severe punishment.
Individual barriers	<ul style="list-style-type: none"> • Threat or fear of stigma, isolation and social exclusion. • Exposure to further violence at the hands of the perpetrator, the community or the authorities, including arrest, detention, ill-treatment and punishment. • Lack of information about human rights and on how and where to seek remedies.
Humanitarian programming obstacles	<ul style="list-style-type: none"> • Failure to address or prioritize GBV in assessments, strategy development, planning and programming because of a lack of information or understanding about the extent or nature of GBV. • Lack of gender-sensitive design of programmes, services and facilities, including inadequate registration practices and distribution of food and non-food items. • Sexual exploitation and abuse by peacekeepers, human rights and humanitarian workers. • Other challenges including weak links with other assistance and protection programmes, lack of confidentiality, confusing reporting and referral mechanisms, and GBV committees that are isolated, under-resourced and weak, and lack support from the wider community.


1.3 What are the consequences?

Gender-based violence can have serious long-term and life-threatening consequences for victims/survivors. These can range from permanent disability or death to a variety of physical, psycho-social and health-related problems that often destroy the survivor’s self-worth and quality of life, and expose her or him to further abuse. Gender-based violence can lead to a vicious cycle of violence and abuse as survivors risk being rejected by their family, excluded and ostracized by society, and even arrested, detained and punished – and sometimes abused again – for seeking protection, assistance or access to justice.

Examples of consequences frequently associated with gender-based violence		
Fatal	Acute physical	Chronic physical
<ul style="list-style-type: none"> • Homicide • Suicide • Maternal mortality • Infant mortality • HIV/AIDS 	<ul style="list-style-type: none"> • Injury, including fistulas • Shock • Disease • Infection 	<ul style="list-style-type: none"> • Disability • Chronic pain or infections • Gastrointestinal problems • Eating or sleeping disorders • Alcohol/drug abuse
Reproductive	Emotional and psychological	Social and economic
<ul style="list-style-type: none"> • Miscarriage • Unwanted pregnancy • Unsafe abortion • STDs, incl. HIV/AIDS • Menstrual disorders • Pregnancy complications • Gynecological disorders • Sexual disorders 	<ul style="list-style-type: none"> • Post-traumatic stress • Depression • Anger, anxiety and fear • Shame, self-hate and self-blame • Mental illness • Suicidal thoughts and behaviour 	<ul style="list-style-type: none"> • Blaming of the victim/survivor • Loss of role or functions in society • Social stigma, rejection and isolation • Feminization of poverty • Increased gender inequalities • Loss of livelihood and economic dependency • Arrest, detention and/or punishment

Discussing issues relating to sex or gender can be considered inappropriate in some cultures and may expose victims/survivors to risk. Victims/survivors of gender-based violence may also have suffered severe injury or trauma, which may resurface during interviewing. In general, victims/survivors should not be interviewed or questioned about their experiences except by trained staff having the required skill, experience and knowledge about appropriate referral and response mechanisms. The safety and best interests of the victim/survivor must be a primary consideration at all times and their informed consent must be sought for any action or disclosure of personal information.

1.4 Who are the primary victims/survivors?

Gender-based violence affects women and men of all ages and backgrounds. Women and girls are the primary victims/survivors but men and boys are frequently targeted as well. They may however face different forms of violence. As an example, women and girls may be more often exposed to rape and other forms of sexual violence, while men and boys may be more likely to be forcibly recruited into armed forces or groups (see Part V.5). 

Persons who have been separated from their family or community, and/or lack access to shelter, education and livelihood opportunities, are among those most at risk of GBV. This includes unaccompanied or separated children, female and child heads-of-households, boys and girls in foster families or other care arrangements, persons with disabilities, persons in detention, working girls, girl mothers, and girls and boys born to rape victims/survivors. Persons that have been exposed to such violence are referred to as “victims/survivors.”

1.5 Who are the main perpetrators?

Gender-based violence is usually perpetrated by persons who hold a position of power or control others, whether in the private or public sphere. In most cases, those responsible are known to the victim/survivor, such as intimate partners, members of the (extended) family, friends, teachers or community leaders. Others in positions of authority, such as police or prison officials, and members of armed forces and groups, are frequently responsible for such acts, in particular in times of armed conflict. In some cases, this has also included humanitarian workers and peacekeepers.


2. The responsibility of the State

The State has primary responsibility for preventing and responding to gender-based violence. This includes taking all necessary legislative, administrative, judicial and other measures to prevent, investigate and punish acts of gender-based violence, whether in the home, the workplace, the community, while in custody, or in situations of armed conflict, and provide adequate care, treatment and support to victims/survivors. To that effect States should, for example:

- **Criminalize all acts of gender-based violence** and ensure that national law, policies and practices adequately respect and protect human rights without discrimination of any kind, including on grounds of gender.
- **Investigate** allegations of GBV thoroughly and effectively, **prosecute and punish** those responsible, and **provide adequate protection, care, treatment and support** to victims/survivors, including access to legal counseling, health care, psycho-social support, rehabilitation and compensation for the harm suffered.
- Take measures to **eliminate all beliefs and practices that discriminate against women** or sanction violence and abuse, including any cultural, social, religious, economic and legal practices.

- Take action to **empower women** and strengthen their personal, legal, social and economic independence.

3. The role of human rights and humanitarian actors

While primary responsibility lies with the national authorities, human rights and humanitarian actors also play an important role in preventing and responding to gender-based violence. In addition to ensuring an effective GBV response from the outset of an emergency, this entails ensuring that gender concerns are adequately integrated into and mainstreamed at all levels of the humanitarian response (*see Part I.1* for information about gender-mainstreaming). 

Human rights and humanitarian actors, as well as peace-keepers, must **not** under any circumstances, encourage or engage in any form of sexual exploitation or abuse. We must at all times ensure that such acts do not take place by our staff or partners or as a result of our interventions. This includes any act or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, as well as any actual or threatened sexual act, whether by force or under unequal or coercive conditions. Such acts include, but are not limited to, all forms of rape and sexual assault, forced prostitution, trafficking and various forms of transactional or survival sex in exchange for money, food, access to shelter, education and other services.⁴

Several guidelines provide useful guidance on GBV prevention and response. These include, in particular, the **IASC Guidelines for Gender-based Violence Interventions in Humanitarian Settings**, which focus on minimum prevention and response to sexual violence in all sectors during emergencies; the **UNHCR Guidelines for Prevention and Response**,⁵ which provide a comprehensive guidance on prevention and response, including in post-emergency and early-recovery settings; and the **IASC Gender Handbook**,⁶ which sets forth standards that guide the integration of gender in humanitarian action. The table below gives some examples of possible activities that can be undertaken:



In our work we can ...

Assessment and analysis

(*see Part III.1*)



- Ensure that protection assessments are based on participatory methods and identify the major causes and consequences of GBV: the individuals and groups most at risk; and existing coping mechanisms. In many cases, specific GBV assessments must be undertaken by trained staff with expertise in the area of gender-based violence.

Coordination

(*see Part III.2*)









- Ensure that GBV is addressed by the protection working group and other relevant coordination structures. This may include appointing a focal point or a working group on GBV. Standard operating procedures, outlining roles and responsibilities of relevant actors, should be agreed upon and implemented.
- Work with other clusters/sectors to ensure that gender concerns are taken into account and integrated in planning and programming activities at all levels, including in areas such as shelter and physical planning, health, food and nutrition, and safety/security.









⁴ These responsibilities are further outlined in the *UN Secretary-General's Bulletin: Special Measures for Protection from Sexual Exploitation and Sexual Abuse*, ST/SGB/2003/13, of 9 Oct 2003.

⁵ Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: UNHCR Guidelines for Prevention and Response, UNHCR, 2003. www.refworld.org


⁶ Women, Girls, Boys and Men: Different Needs Equal Opportunities, IASC, 2006. www.humanitarianinfo.org/iasc/gender

	<ul style="list-style-type: none"> • Ensure that humanitarian staff and partners, including peace-keepers, are familiar with relevant codes of conduct and the prohibition against engaging in sexual exploitation and abuse of any kind. Adequate and confidential complaints mechanisms should be established and complaints promptly investigated and followed up.
Advocacy <i>(see Part IV.3)</i> 	<ul style="list-style-type: none"> • Advocate with relevant actors, including national and local authorities, traditional, cultural or religious bodies, armed forces and security forces, law enforcement officials, civil society groups, and others, to ensure effective prevention and response. This may also include advocacy with non-state actors.
Information and communication activities <i>(see Part IV.6)</i> 	<ul style="list-style-type: none"> • Support or undertake information activities that aim to raise awareness of GBV and that combat discrimination and other underlying causes of gender-based violence. • Ensure that information about GBV prevention and response, including how and where to access relevant assistance and services, is readily available for all survivors of GBV.
Referral and response mechanisms	<ul style="list-style-type: none"> • Ensure that adequate referral and response mechanisms are put in place, including clear and acceptable referral and reporting mechanisms that respect confidentiality and the rights of the victim/survivor, and that these are known and available to the community. Guidance on setting up such mechanisms is available in the Guidelines mentioned above.
Physical safety and security <i>(see Part V.3)</i> 	<ul style="list-style-type: none"> • Take action to improve safety and security in and around camps, settlements, villages and other areas, paying particular attention to locations where acts of GBV have or are likely to occur. This includes food distribution sites, water points, areas for firewood collection, schools, public spaces, etc. • Ensure that mechanisms are in place to guarantee the security of victims/survivors and witnesses in order to protect them against further harm. These can include traditional protective mechanisms, establishments of shelters for victims/survivors, foster care arrangements for children, or, exceptionally, assistance to relocate to another place. In some cases, measures may need to be taken to protect the perpetrator from violence, such as at the hands of the victim's family or clan.
Health <i>(see Part V.15)</i> 	<ul style="list-style-type: none"> • Ensure that adequate and confidential basic health care, including physical, reproductive and psycho-social health care, is available and fully accessible to all women and girls, particularly victims/survivors of GBV.
Community mobilization <i>(see Part IV.10)</i> 	<ul style="list-style-type: none"> • Build the capacity of individuals to protect themselves and recover from acts of GBV, for instance by encouraging and promoting equal participation of men and women in all community activities and supporting education and vocational training programmes, income-generating activities and literacy programmes that empower women and girls. • Build the capacity of the local community by re-building family and community support systems, particularly women's/youth groups and organizations, including by encouraging and supporting social and recreational programmes and encouraging resumption of cultural and spiritual activities.
Livelihoods <i>(see Part V.16)</i> 	<ul style="list-style-type: none"> • Support self-reliance and sustainable livelihood programmes and ensure that these are available to victims/survivors of GBV. Such programmes can reduce the risk of GBV and mitigate its effects by facilitating rehabilitation and reintegration of victims/survivors.



<p>Material assistance (see Part IV.7)</p> 	<ul style="list-style-type: none"> • Try to ensure that victims/survivors of GBV and their families, as well as those most at risk of GBV, have full and equal access to needed material and other support. This can, for instance, include safe shelter, livelihood support, NFIs, modest financial grants to access education or training, and/or micro-financing opportunities.
<p>Technical advice and assistance, including training (see Part IV.4)</p> 	<ul style="list-style-type: none"> • Provide training or technical advice and assistance on human rights, including on GBV prevention and response, to relevant actors, including, for instance, community leaders, civil society and NGOs, the police and armed forces, judges and lawyers, health workers, social workers and others. • Ensure that peacekeepers, humanitarian workers and others working with displaced individuals and communities receive training and sensitization on GBV, including their responsibility to prevent and respond to such acts.
<p>Shelter and physical planning (see Part V.13)</p> 	<ul style="list-style-type: none"> • Provide or advocate for the establishment of safe shelter for victims of GBV, in particular single women and unaccompanied children. Where individuals or families are provided with shelter material, ensure that gender concerns are considered. As an example, women or girls should not have to travel long distances to collect the material and should have the ability to erect the shelter themselves or receive adequate assistance to do so, without being exposed to pressures for transactional sex. • Ensure that gender concerns are taken into account in physical planning of camps and in the design and implementation of services, such as health care, education, water/sanitation and food distribution (see Part IV.7). 
<p>Justice (see Parts IV.5 and V.10)</p> 	<ul style="list-style-type: none"> • Ensure that victims/survivors have access to free and confidential counseling about legal and/or other avenues for redress. • Provide modest material and other support to victims/survivors and their families where needed to facilitate their access to justice (whether formal or informal). This can, for instance, include assistance with legal fees, translation, travel to and from court, and/or measures to ensure the safety and security of the victim/survivor. • Monitor and follow up on cases of GBV to ensure that these are investigated, prosecuted and resolved in accordance with established laws and procedures. • Help build the capacity of the justice sector, including police, prosecutors, lawyers and judges, to deal with issues related to GBV.
<p>Legal reform</p>	<ul style="list-style-type: none"> • Review national laws, regulations, policies, procedures and practices, including traditional and cultural practices, and, based on the result, advocate with relevant stakeholders to ensure they provide adequate protection against gender-based violence. • Where key human rights instruments, including the Convention on Elimination of All Forms of Discrimination Against Women, have not been ratified by the State or where their adoption has been accompanied by reservations, advocate for the adoption and implementation of these instruments or the lifting of reservations.
<p>Education (see Part V.17)</p> 	<ul style="list-style-type: none"> • Promote and/or provide full and equal access for IDPs and other affected individuals to safe education, and vocational and skills training, that can strengthen self-reliance and economic independence. • Promote a safe learning environment both within and around schools and other educational facilities. This may include awareness raising among children, parents, teachers and other educational staff, and relevant local authorities.



Children	<ul style="list-style-type: none"> Ensure that child victims/survivors are provided with special care and assistance as appropriate. Such interventions should be guided by the key principles of the Convention on the Rights of the Child, namely the best interests of the child and the child's right to life, survival and development, non-discrimination, and participation.
Durable solutions <i>(see Part VI)</i> 	<ul style="list-style-type: none"> Advocate with relevant actors to encourage attention to GBV in all return, relocation and reintegration frameworks, developmental action plans, and disarmament, demobilization and reintegration programmes. Such frameworks and action plans should contain measures to prevent and respond to GBV and provide adequate care, treatment and support to victims/survivors.



4. Key actors and coordination structures

All humanitarian actors have a responsibility to prevent and respond to gender-based violence. Ensuring an effective response requires a multi-sectoral and coordinated effort by a range of local, national and international actors. These include, for example:

- At the **national level**, displaced individuals and communities; ministries for justice, health, education, social services and the family; the parliament, particularly relevant legislative or monitoring committees; health care institutions and personnel; police and prison authorities; prosecutors; the military and para-military groups; traditional, customary or religious associations and councils; local NGOs and civil society, particularly women's and youth organizations.
- At the **international level**, UNICEF and UNFPA serve as focal point agencies for GBV within the Global Protection Cluster. Other important actors include OHCHR, UNDP UNHCR, DPKO, WFP, WHO, ICRC/IFRC, IOM, and many international NGOs.

5. International legal principles

Acts of gender-based violence, as well as threats or incitements to commit such acts, constitute a serious violation of international human rights and humanitarian law.

International (and regional) human rights law prohibits all forms of violence and discrimination, including gender-based violence. Any form of gender-based violence constitutes a serious violation of human rights. Depending on the act in question, it may violate a number of rights, such as the right to dignity and physical, mental and moral integrity; to freedom from torture and cruel, inhuman or degrading treatment or punishment; to liberty and security of person, and to freedom from slavery; the right to life; and the right to non-discrimination, equality and to equal protection of the law. Rape and sexual violence suffered at the hands of agents of the State, such as police or military officers, are generally considered to constitute an act of torture under human rights law.

See also **Principle 11** of the **Guiding Principles on Internal Displacement** (in Annex 1).

Gender-based violence also impairs or nullifies a range of other rights, such as the rights to the highest attainable standard of physical and mental health, to an adequate standard of living, to education, and to just and favourable conditions of work.⁷

International humanitarian law and international criminal law. Many acts of gender-based violence, including rape and any other form of sexual violence, such as sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, are strictly prohibited by international humanitarian law as well as by the military code of most States. Such acts

⁷ CEDAW Committee, General Recommendation No. 19(1992) Violence Against Women, para. 7.

constitute a serious violation of the law and a grave breach of the Geneva Conventions.⁸ In addition, depending on the context in which they are committed, such acts might constitute a war crime⁹, a crime against humanity¹⁰ or genocide,¹¹ all of which are punishable under international criminal law. All States and non-state actors are obliged to take action to prevent such acts and investigate and prosecute those responsible, or extradite them to other States or international tribunals with jurisdiction to try such acts.

Various resolutions and declarations of the UN Security Council, the General Assembly and other bodies have repeatedly condemned various forms of gender-based violence and emphasized the responsibility of the State to end impunity for war crimes and crimes against humanity, including sexual and other violence against women and girls. The Security Council has passed a series of resolutions calling upon parties to armed conflict to fully respect international law and to take special measures to protect women and children from the effects of hostilities, including any form of sexual violence, including by ending impunity and prosecuting those responsible for such crimes.¹² The Security Council has also established a monitoring and reporting mechanisms on children in armed conflict, which includes rape and other sexual violence among the six gravest violations against children.¹³



Resources

- *Guidelines for Gender-based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies*, IASC, 2005. www.humanitarianinfo.org/iasc/gender (available in 5 languages)
- *Sexual and Gender-based Violence against Refugees, Returnees and Internally Displaced Persons: Guidelines for Prevention and Response*, UNHCR, 2003. www.refworld.org (available in 7 languages)
- *Gender-based Violence Tools: Manual for Assessment, Programme Design, Monitoring and Evaluation in Conflict-affected Settings*, Reproductive Health Response in Crisis Consortium, 2004. www.refworld.org
- *Women, Girls, Boys and Men: Different Needs – Equal Opportunities*, Gender Handbook, IASC, 2006. www.humanitarianinfo.org/iasc/gender
- *Standard Operating Procedures for Prevention of and Response to Gender-based Violence*, UNHCR, 2006. www.refworld.org

⁸ See Rules 90, 93 and 94 of Customary International Humanitarian Law, Volume I (ICRC, 2005). Such acts are also prohibited through (i) grave breaches provisions such as Art. 147 of the Fourth Geneva Convention and Art. 85 of Additional Protocol I, which prohibit torture, inhuman treatment, and willfully causing great suffering or serious injury to body and health; (ii) Common Art. 3, which prohibits violence to life and person, cruel treatment and torture, and outrages upon personal dignity; and other provisions, such as Art. 27 of the Fourth Geneva Convention, Arts. 75-77 of Additional Protocol I and Art. 4(2) of Additional Protocol II, which explicitly prohibit attacks against women, including rape, enforced prostitution and any form of indecent assault.

⁹ See e.g. Arts. 8(2)(a)(ii) and (iii), 8(2)(b)(xxi) and (xxii), 8(2)(c)(i) and (ii), 8(2)(e)(vi) of the Statute for the International Criminal Court (ICC Statute). Note that even a single act of sexual violence can constitute a war crime.

¹⁰ Art. 7(1)(g) of the ICC Statute; Art. 5 of the ICTY Statute; and Art. 3 of the ICTR Statute. Crimes against humanity are crimes that are committed as part of a widespread or systematic attack against civilians, regardless of whether they are committed in times of peace or armed conflict.

¹¹ Rape, sexual violence and abuse may amount to genocide if committed with intent to destroy, in whole or in part, a particular group, as defined in Art. 6(b) of the ICC Statute; Art. 2 of the ICTR Statute; and Art. II(b) of the Convention on the Prevention and Punishment of the Crime of Genocide. This was, for instance, confirmed by the ICTR in its judgment in *Prosecutor v. Akayesu* (Case No. ICTR-96-4-T).

¹² See in particular Security Council Resolution 1325(2000), op. paras. 9, 10 and 11. See also Resolutions of the Council on Protection of Civilians, including Resolution 1674(2005), and on Protection of Children in Armed Conflict, including Resolutions 1612(2005), 1539(2004), 1460(2003), 1379(2001), 1314(2000) and 1261(1999).

¹³ See in particular Security Council Resolution 1612(2005) of 26 July 2005. For further information see the Report of the Secretary-General on children and armed conflict, A/59/695-S/2005/72, 9 Feb 2005.

Further reading

- Abuse and Exploitation Module, Action for the Rights of Children, 2002.
- *Clinical Management of Survivors of Rape: Developing Protocols for Use with Refugees and Internally Displaced Persons*, WHO/UNHCR, rev. ed. 2004. www.refworld.org
- *Early Marriage: A Harmful Traditional Practice: A Statistical Exploration*, UNICEF, 2005. www.unicef.org
- *Good Practices in Combating and Eliminating Violence Against Women: Report of the Expert Group Meeting*, UN Division for the Advancement of Women, May 2005.
- *Harmful Traditional Practices Affecting the Health of Women and Children*, Fact Sheet No. 23, OHCHR. www.ohchr.org
- *How to Use International Criminal Law to Campaign for Gender-sensitive Law Reform*, Amnesty International, 2005. www.amnesty.org
- *It's In Our Hands: Stop Violence Against Women*, Amnesty International, 2004. www.amnesty.org
- *Potential links between food aid, distribution of relief items and sexual exploitation and proposed preventive/remedial actions*, UNHCR, 2002.
- *Women in an Insecure World: Violence against Women: Facts, Figures and Analysis*, Geneva Centre for the Democratic Control of Armed Forces, 2005. www.dcaf.ch
- *Women, War, Peace: Progress of the World's Women 2002*, UNIFEM, 2002. www.unifem.org



Websites

- United Nations Population Fund (UNFPA) www.unfpa.org
- United Nations High Commissioner for Refugees (UNHCR) www.unhcr.org
- UNIFEM Portal on Women, Peace and Security www.womenwarpeace.org
- Reproductive Health Response in Crisis Consortium (RHRCC) www.rhrc.org
- World Health Organization (WHO) www.who.int/gender/violence/en/
- International Committee of the Red Cross (ICRC) www.icrc.org/eng/women
- Women's International League for Peace and Freedom (WILPF) www.peacewomen.org/wpsindex.html
- International Rescue Committee (IRC) www.irc.org

Action Sheet 5

Children associated with armed forces or armed groups



Key message

Hundreds of thousands of children are associated with armed forces and armed groups in armed conflicts in over 20 countries around the world. Girls and boys are used in a variety of ways from support roles, such as cooking or portering, to active fighting, laying mines or spying and girls are frequently used for sexual purposes.

This unrelenting and brutal use of children violates their rights and causes them physical, developmental, emotional, mental, and spiritual harm. The release, protection and reintegration of children recruited or used by armed forces or armed groups must be sought at all times, including during armed conflict. All humanitarian and human rights actors must take preventive action from the onset of humanitarian operations in a coordinated and strategic manner.

“**Child**” refers to any person less than 18 years of age in accordance with the Convention on the Rights of the Child.

A **child associated with an armed force or group** refers to any person below 18 years of age who is or who has been recruited or used by an armed force or group in any capacity, including but not limited to children used as fighters, cooks, porters, messengers, spies or for sexual purposes. It does not only refer to a child who is taking or has taken an active part in hostilities.

1. The impact of displacement on the risk of recruitment

Children who become internally displaced as a result of natural disasters or armed conflict are usually at greater risk of recruitment or use by armed forces or groups. This is due to reduced social protection and coping mechanisms, discrimination on the basis of their displaced status or their perceived allegiance with a belligerent in the armed conflict. Additionally, lack of economic, educational or other opportunities caused by displacement can make internally displaced children more vulnerable to recruitment.

Children separated from their families are particularly exposed and, where the security situation is fragile, for example when IDP camps are close to conflict areas or infiltrated by armed actors, the potential for forced recruitment through abduction of children or other means is very high.

Girls constitute up to 40 per cent of children associated with armed forces or groups. While their experiences may lead to significant problems, particularly regarding their reintegration, their specific needs are rarely adequately addressed. Gender roles may contribute to girls' vulnerability to recruitment, which may be heightened in situations of displacement, for example by having to fetch water or firewood unaccompanied in conflict zones.

¹ See section 7 at the end of this Action Sheet. ‘*Key international human rights and humanitarian law provisions*’, regarding recruitment age.

² “Armed forces” refers to the armed forces of a State. “Armed groups” refers to groups distinct from armed forces as defined by Article 4 of the Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict. “Recruitment” refers to compulsory, forced and voluntary conscription or enlistment of children into any kind of armed force or armed group.

2. Why children are recruited into armed forces or armed groups

Children become associated with armed forces or armed groups for many different reasons depending on the context. A situation analysis is essential in order to identify the specific causes of recruitment in any given operation. While many children are forcibly recruited, others “volunteer” because of their circumstances. War itself is a major determinant, but children may see enlistment as the only alternative when they lack access to education or employment or when their families are abusive or violent or fail to provide proper care. Girls frequently join up to escape sexual violence or other forms of discrimination. In such contexts, children may see participation in armed forces or groups as their best option for survival for themselves, their families or communities.

Children living in highly militarized or politicized communities or those where violence is organized or commonplace may also be vulnerable to recruitment; children often join armed groups to support or remain with their families.

Armed actors may target children due to a need for manpower or because children are particularly useful in certain roles, for example as spies; or because they are more likely to obey orders or work for food, security or status rather than wages.

The consequences for children associated with armed forces or armed groups

The involvement of children in conflict exposes them to extreme and unacceptable threats to their health and well being and violates their rights.

- Boys and girls are deprived of growing up with their families and the opportunity to develop physically and emotionally in a familiar or protective environment.
- In combat, many children are killed, severely injured or permanently disabled; they may be forced to witness or participate in atrocities.
- In many contexts, children, mainly girls, associated with armed forces or groups are subjected to sexual and gender based violence and may contract sexually transmitted infections including HIV/AIDS.
- Girls may also become pregnant or give birth during their time with armed forces or armed groups.
- Children whose families are displaced are at greater risk of remaining separated from their families and communities once released.
- Children may also be stigmatized or rejected by their families or communities. Girls face particular difficulties reintegrating, particularly if they return with children or pregnant. Despite their experiences these children usually see themselves as strong and hard working. They are resilient and able to do well in life if they are given appropriate help, support and encouragement. provision

3. The role and responsibility of the State

States bear the primary responsibility for providing security to and ensuring the protection of all children within their jurisdiction. Where states cannot meet all of their humanitarian responsibilities directly, they are charged with enabling the provision of humanitarian action by impartial actors.

States should take all necessary legislative, administrative and judicial measures to prevent the recruitment of children into armed forces or armed groups; facilitate the release of those children already recruited; and provide them with protection and reintegration support. These measures include the ratification and implementation of all relevant legal instruments, ensuring that all relevant international standards are respected and reflected in national law and establishing and enforcing recruitment procedures in compliance with international law, including the Optional Protocol to the Convention on the Rights of the Child.

4. The role and responsibility of human rights and humanitarian actors

The Paris Commitments and Guiding Principles on children associated with armed forces or armed groups provide comprehensive guidance for country teams; reference should be made to the Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) (see below) when working in a peacekeeping environment. Available at www.unicef.org

Child protection actors, working together with government ministries and other bodies with a child protection mandate, should support States by providing the required technical and operational expertise and leadership in decision-making and programme implementation for the prevention of recruitment as well as for the release, demobilization and reintegration of children.

All human rights and humanitarian actors, including those without expertise in the area of child protection, should take measures to prevent and to ensure an effective response to the recruitment of children into armed forces or armed groups from the outset of an emergency. This entails ensuring that child protection concerns are adequately integrated and mainstreamed at all levels of the humanitarian response. The following matrix outlines key activities which could form part of an effective response.



In our work we can....

Assessment & Analysis

(see Part III.1)



- Ensure that joint situational analysis includes (i) the specific reasons for recruitment (ii) the children most at risk of recruitment (iii) who is carrying out recruitment and (iv) what is being done to prevent recruitment. (v) existing initiatives and key stakeholders regarding demobilization or release and reintegration. Ensure that the joint analysis integrates an age and gender perspective.

Coordination

(see Part III.2)



- Support the establishment of an interagency group involving all actors implementing programmes for children associated with armed forces or groups where roles and responsibilities are agreed; policy and programme approaches are defined; and linkages established with all other sectors. This group should also ensure that common protocols on documentation and information sharing are developed.
- Ensure that prevention activities, which address the underlying causes of recruitment, are implemented within a broad child protection framework.
- Work closely with peacekeeping forces; for further information on demobilization in a peacekeeping environment see the *International Disarmament, Demobilization and Reintegration Standards*.³

Advocacy

(see Part IV.3)






Undertake advocacy with a range of actors including:

- Ensure that criteria for any *release* or *demobilization* process is based on the definition of “children associated with armed forces or armed groups” used in this document and the objective of the release process is the early reintegration of children. These points should be clearly communicated to both armed forces and groups and communities including children.



³ Particularly module 5.30 on children; the module provides policy makers, senior management, operational staff and DDR officers with guidance on the planning and implementation of child specific demobilization and integration programmes for children associated with armed forces or armed groups in a peacekeeping environment. See also 5.10 on Women, Gender and DDR and 5.20 on Youth & DDR <http://www.unddr.org/iddrs/framework.php>

	<ul style="list-style-type: none"> • Advocate with States to take the necessary steps to ensure that all relevant international standards are ratified, respected and reflected in national law and practice. This includes ensuring that children who leave the armed forces or groups by any means (including escape or capture) be provided with protection in accordance international human rights standards (particularly where those groups acted against the State or IDP community).⁴ • Develop advocacy campaigns with national civil society groups, including religious associations, to convey to key national stakeholders that the recruitment and use of children by armed forces or armed groups is not acceptable. Advocate for the inclusion of children in any cease fire or peace agreements. • While recognizing that States have different obligations under International Law, advocate, as do the majority of child protection actors, for States to raise the minimum age of recruitment to 18 in all circumstances. • Advocate for children associated with armed forces or armed groups to be treated in accordance with international standards for juvenile justice. • Advocate with national authorities and other stakeholders, as appropriate, to improve safety and security in and around camps, villages and other urban areas in order to prevent forced recruitment (see Part V.3.2). 
<p>Monitoring & reporting (see Part IV.1)</p> 	<ul style="list-style-type: none"> • Develop local capacity where possible for follow up and to monitor the situation of those children who require additional support including girls and girl mothers, and any children at risk of re-recruitment. • Support the establishment of specialized mechanisms for the systematic monitoring and reporting⁵ on the recruitment (or re-recruitment) or use of children by armed forces or groups; this is an essential protection measure and also serves as the basis for actions to pressure armed forces or groups to respect fundamental humanitarian and human rights norms and for actions to end impunity for those who violate those norms. Discuss roles and responsibilities for monitoring and reporting such cases within the child protection group and/or the country team.
<p>Community mobilization (see Part IV.10)</p> 	<ul style="list-style-type: none"> • Develop a prevention strategy in consultation with children, families and communities, which builds on their own protection initiatives and responds to the reasons for recruitment. This should include: (i) the practical application of relevant law and standards such as the Optional Protocol to the CRC; (ii) practical measures to improve children's safety, for example ensuring family unity; and (iii) programming to prevent recruitment such as the provision of education and livelihood opportunities. • Work with key members of the community to prevent propaganda or active recruitment taking place in or around schools. Parents and teachers are very important stakeholders in this respect.

⁴ See section 7 at the end of this action sheet (Key international legal standards).

⁵ Pursuant to Security Council Resolutions 1539 (2004) and 1612 (2005) the Secretary General UNICEF and the Office of the Special Representative of the Secretary General for Children Affected by Armed Conflict (SRSG-CAAC) are tasked with a lead role in the implementation of a mechanism for monitoring and reporting on recruitment and monitoring of recruitment or use of children and other egregious violations against children in armed conflict. They are tasked with working alongside UN Peacekeeping forces and UN Country Teams. They act in collaboration with governments, local and international NGOs, civil society actors and other partners. In each country where children and armed conflict is an issue, a task force on monitoring and reporting will be constituted. The country-level Task Force on Monitoring and Reporting will be co-chaired by the Deputy SRSG and UNICEF Representative in situations where a UN peacekeeping mission is in place, or by the UNICEF representative in situations without a peacekeeping mission.

- Promote the development of plans by specialized organizations for programmes to support the release and reintegration of children; this should not be dependent either on the progress of any formal peace process or any formal DDR process. The plans should: (i) emphasize the engagement of communities and build on existing resources (ii) ensure the participation of children, their families and communities (iii) include a strategy to meet the needs both of children who enter a release process and those who do not and (iv) include specific activities to meet the needs of girls and their children.
- Encourage the establishment of child protection committees – where children and adults can work together to develop effective protection strategies – and the formation of youth groups.

Capacity building

(see Part IV.4)



- Support the provision of technical assistance and advice to relevant stakeholders, including peacekeepers, local and national authorities and community based organizations.
- Ensure that training is provided to all those implementing programmes or working with children associated with armed forces or armed groups, for example in interviewing and communicating with children. All staff working with children should adhere to a code of conduct on the protection of children (see Part V.4).⁶
- Ensure that staff are trained and experienced in working with children, health and psychosocial needs are addressed and urgent family tracing can be undertaken.

Addressing the specific situation of girls

(see Part IV.11)



- Take pro-active measures to ensure that all aspects of prevention of recruitment, release and reintegration foresee concrete measures to respond to the specific needs of girls. Pay particular attention to the needs for protection and support both of girl mothers and of children born to girls as a result of their recruitment by armed forces/groups. They may require (i) health care, including reproductive health (ii) psychosocial support (iii) measures to ensure they can access services including education or training programmes.
- Identify and assist girls only with extreme sensitivity in order not to increase the stigma attached to their involvement with armed forces or groups.
- As a preventative measure, ensure that humanitarian programmes promote gender equality and freedom of choice and provide girls with opportunities to develop skills and generate income in non-exploitative settings.


Health

(see Part V.15 and IV.11)



- Ensure that adequate, free, confidential, accessible and “child friendly” health care including reproductive health services are available. Following release or demobilization, all children should undergo assessment of their physical health including nutritional screening, and receive treatment or referral on to specialist services as necessary.
- Provide appropriate medical care and support for children that have been subjected to SGBV (see Parts V.4 and 15). Provide appropriate responses to meet the particular needs of girls including those who are pregnant or girl-mothers and their children.

⁶ An example of a code of conduct developed by a coalition of organizations is ‘Keeping Children Safe: A toolkit for child protection’, by the Keeping Children Safe Coalition, 2006.

<p>Interim care</p>	<ul style="list-style-type: none"> • Ensure that interim care is provided for those children released or demobilized from armed forces or groups. They may benefit from a period of time in a setting where special assistance is provided by experienced staff; this might include children with medical needs, girl-mothers, children whose family cannot be traced or where the community is hostile to returning children. • <i>Interim care is not universally necessary for all children</i> and where it is used should always be planned and implemented as part of a community based programme to facilitate the return of children to their communities and to promote the protection and development of conflict-affected children in general.
<p>Reintegration of children and livelihoods (see Parts VI and V.16) </p>	<ul style="list-style-type: none"> • Reunite or place children in a supportive family environment as soon as possible following preparation of the child, family and community. Assess and seek ways to address any obstacles to reintegration including hostility towards returning children, medical needs or economic constraints. • Do not provide direct cash benefits to released or demobilized children; reintegration assistance should generally be provided through broader support to children, families and communities. They should always build on the resilience of children and aim to benefit the wider community whilst developing the capacity of communities to provide a protective environment. • Provide educational activities that promote psychosocial well being and take into account the children's lost educational opportunities, their age and stage of development, and their experiences with armed forces or groups. • Conduct a technical assessment of the livelihood systems, market opportunities, and household economies in the areas to which children are returning, to develop economically relevant training and opportunities for economic reintegration. • Develop links with any programmes, policies and initiatives that could benefit these children and their families either directly, for example through social welfare programmes, or indirectly, through reconstruction and rehabilitation of national institutions and other development programmes. Ensure that these programmes support the inclusion of all children and do not neglect the specific situations of girls, young mothers or children with a disability.

5. Key partners

- At the **national level**: In addition to the internally displaced and host communities including children these include community and youth organizations, civil society organizations, community based organizations and NGO's; local and central government including Ministries of Social Welfare and Family, ombudsman or commissioners for children, Ministries for Justice, Education and Health. National governments (both affected countries and donor governments), human rights actors, military and security actors (state or non-state).
- At the **regional level**: Any regional military and civilian peace-keeping forces; regional organizations, such as the African Union, the European Union, Economic Community of West African States, the Organization for Security and Cooperation in Europe; regional human rights commissions and courts; governments of neighbouring states, influential states in the region, and donor countries.
- At the **international level**: INGO's, UN organizations in particular Office of the Special Representative of the Secretary General for Children Affected by Armed Conflict (SRSR-CAAC) UNICEF, UNHCR, OCHA, DPKO; the ICRC and IFRC, UN Security Council, International Criminal Court (ICC); UN treaty bodies and special procedures.

6. Key international legal standards

International Human Rights Law, particularly the Convention on the Rights of the Child, provides the core principles for protecting the rights of all children at all times; more specifically, it prohibits the recruitment and the participation in conflict of children of less than 15 years of age.⁷ In addition, it lays down State obligations in a number of areas which are of direct relevance to children recruited by armed forces or at risk thereof. These include the protection of separated and unaccompanied children; the recovery and social reintegration of children victim of neglect, exploitation or abuse, torture, ill treatment or punishment, as well as of armed conflicts; children's right to education; the prohibition of torture and the unlawful or arbitrary deprivation of liberty; and treatment under the juvenile justice system.⁸

The ILO Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour defines children as under 18 years and refers to forced and compulsory recruitment of children in armed conflict as *one of the worst forms of child labour*.

An Optional Protocol to the CRC on *the involvement of children in armed conflict* was adopted in the year 2000. It raises the minimum age for direct participation in hostilities and compulsory recruitment to 18 years; urges armed groups not to recruit or use children under the age of 18 and requires State Parties to take all feasible measures to criminalize such practices. It also calls on States to raise the minimum age and introduce strict safeguards for any voluntary military recruitment under 18.

The Optional Protocol builds on other standards, in particular the 1999 African Charter on the Rights and Welfare of the Child. The charter is the only **regional treaty** in the world which addresses the issue of child soldiers. It defines a child as anyone below 18 years of age without exception and charges States to ensure that no child takes direct part in hostilities and to refrain in particular from recruiting any child.⁹

International humanitarian law provides broad protection to children. In the event of armed conflict, both international and non-international, children benefit from the general protection provided to all civilians not participating in hostilities. Given the specific needs of children, the Geneva Conventions of 1949 and their two Additional Protocols of 1977 lay down a series of rules according them special protection; children who take a direct part in hostilities do not lose that special protection. In addition, IHL absolutely prohibits the recruitment of children younger than 15 into the armed forces or other armed groups and their involvement in hostilities in non-international conflicts.¹⁰

International Criminal Law: The Rome Statute of the International Criminal Court (ICC) 1998, states that conscripting or enlisting children under 15 years into national armed forces or groups or using them to participate actively in all kinds of hostilities, is a war crime. The ICC has no jurisdiction over persons under 18 years of age.

UN Security Council Resolutions have repeatedly condemned and called for an end to the unlawful recruitment and use of children¹¹

⁷ Art 38.2

⁸ See Arts 20, 28, 29, 39 and 40 of CRC. In addition to the CRC the following international instruments provide protection for children in the justice system and the protection of children as witnesses: UN Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules) 1985, UN Rules for the Protection of Juveniles Deprived of their Liberty 1990, and the International Covenant on Civil and Political Rights 1976 (Articles 6 & 10).

⁹ See art 22(2).

¹⁰ See Art. 3(c) Additional Protocol II to the Geneva Conventions, applicable to non-international armed conflicts. Children younger than 15 are also protected from direct involvement in international armed conflicts, but in this case, the prohibition is not absolute. Instead, Parties to the conflict 'shall take all feasible measures in order that children who have not attained the age of fifteen years do not take a direct part in hostilities, and in particular, they shall refrain from recruiting them into their armed forces', (see Art. 77 of the Additional Protocol I to the GC). The use of the term 'direct part' implies that children younger than 15 can be involved as long as it is not in direct combat. Children under 15 could, for instance, be involved as messengers, porters, etc.

¹¹ See UN Security Council Res. 1261(1999) 1314(2000) 1379 (2001), 1460 (2003), 1539 (2004) and 1612 (2005).

Resources



Standards, Principles and Codes of Conduct related to personnel:

- *Code of Conduct for the International Red Cross and Red Crescent Movement and NGOs in Disaster Relief*, 1994
- *Keeping Children Safe: A toolkit for child protection*, by the Keeping Children Safe Coalition, 2006.

Selected tools, guidelines & principles

- *The Capetown Principles and best practices on the prevention of recruitment into the armed forces and on the demobilization and social reintegration of child soldiers in Africa*, 1997.
- *The Paris Commitments and Guiding Principles on children associated with armed forces or armed groups*, 2007
- *Integrated Disarmament, Demobilization and Reintegration Standards (IDDRS) 2006* particularly module 5.30 on children, and also 5.10 on Women, Gender and DDR and 5.20 on Youth & DDR. <http://www.unndr.org/iddrs/framework.php>
- *Humanitarian Charter and Minimum Standards in Disaster Response; Interagency Guiding Principles on Unaccompanied and Separated Children*, The Sphere Handbook, ICRC 2004
- *Child Soldiers*, ICRC Publication 2003 ref 0824
- *Children and war information kit*, ICRC publication 2004, ref. 0577K

Further reading

- *A Fighting Chance*, Save the Children Alliance; Guidelines and Implications for programmes involving children associated with armed groups and armed forces, 2004.
- *Children - Not Soldiers: Guidelines for working with child soldiers and children associated with fighting forces*. Isobel McConnan and Sarah Uppard, Save the Children UK, London (2001).
- *Children: The Invisible Soldiers*. Brett, R. & McCallin, M.,: Stockholm, Rådda Barnen. (2nd Edition, 1998).
- *Promoting Psycho-social Well-Being Among Children Affected by Armed Conflict and Displacement: Principles and Approaches*. Geneva, SCA - Working Paper No. 1. Save the Children Alliance (1996).
- *Global Report on Child Soldiers*, Coalition to Stop the Use of Child Soldiers, 2004
- Inter-Agency Standing Committee (IASC) Guidelines on Mental Health and Psychosocial Support in Emergency Settings and Guidelines for Gender Based Violence Interventions in Humanitarian Settings



Web Sites

- Coalition to Stop the Use of Child Soldiers www.child-soldiers.org
- International Committee of the Red Cross (ICRC): www.icrc.org
- United Nations Children's Fund (UNICEF): www.unicef.org
- Office of the High Commissioner for Human Rights (OHCHR): www.ohchr.org
- Special Representative of the Secretary-General for Children and Armed Conflict www.un.org/special-rep/children-armed-conflict/fsoldiers.htm
- Office for the Coordination of Humanitarian Affairs (OCHA): www.ochaonline.un.org

Action Sheet 6

Mines and Explosive Remnants of War



Key message

In many of today's conflicts landmines kill and mangle more civilians than any other weapon. They affect far more civilians than military personnel and continue to do so long after the conflict has ended. Landmines and explosive remnants of war pose a serious threat to civilians, including internally displaced persons, whether during flight, during displacement or when trying to return home or pursuing other solutions. It is imperative that mine action is fully integrated in the overall humanitarian response.

1. What are landmines and explosive remnants of war?

A **landmine** is an explosive device that is placed under, on or near the ground or other surface, and that is designed to explode by the presence, proximity or contact of a person or a vehicle.¹ Landmines can also be triggered by tripwires, command detonation and other methods, or can self-detonate with the passage of time. They are sometimes booby-trapped by anti-handling devices to make their removal more difficult.

Landmines are usually camouflaged and can be difficult to detect and avoid. They are often laid in patterns to create security barriers along roads and around strategic military areas or installations. In many cases, however, they are laid without clear design or record in areas that are mainly civilian.

Explosive remnants of war (ERW) are all explosive ordnance that have been used or fired but have failed to explode as intended (unexploded ordnance or UXO) or that have been abandoned (abandoned unexploded ordnance or AXO).² They can be hard to detect, have no consistent shape, are often unstable, and can detonate if touched or disturbed, or simply as a result of the passage of time. This includes, for example, cluster munitions (that disperse or release multiple sub-munitions in mid-air, scattering them over a wide area), which if unexploded create effective "minefields".

2. The protection implications of landmines and ERW

Landmines are relatively inexpensive and simple to use; but their effects on civilians, and in many cases humanitarian workers, are devastating. Landmines are inherently indiscriminate in the sense that they cannot be aimed: they do not distinguish between the footstep of a child and that of a soldier. In fact, most of the victims of landmines and ERW are civilians, many of them living in countries that have long been at peace.

Landmines and ERW not only kill: they also cause severe injury and long-term disability, often with grave consequences. A landmine blast can cause severe burns, blindness, loss of limbs, and shrapnel wounds. Those who survive the initial blast often require amputations, long hospitalization, extensive rehabilitation and socio-economic assistance to enable their reintegration into society. Survivors and their families often suffer from lack of medical care,

¹ More than 600 different types of landmines exist. They are grouped into two broad categories: anti-personnel (AP) mines and anti-vehicle (AV) mines also referred to as anti-tank mines.

² Unexploded Ordnance (UXO) include munitions (bombs, shells, mortars, grenades and the like) that have been used but which have failed to detonate as intended. Failure rate can be as low as 1% or as high as 40% depending on a range of factors, such as age of the weapon, storage condition, method of use and environmental conditions. UXOs affect more than 80 countries are often more common than landmines.

limited access to education and public services, unemployment, discrimination and stigma owing to disability or disfigurement as a result of mines or ERW.

The presence of land mines and ERW, or the mere threat of their presence, may also restrict freedom of movement and block access to fields, roads, water supplies, schools, health centres and other public services. Landmines can thus impede social and economic development and have a paralyzing effect on civilian life and humanitarian operations. Where the threat is *overestimated*, relief efforts may be slower and more tentative than need be: where it is *underestimated*, significant casualties and delays can occur. It is thus critical that mine action is mainstreamed within any humanitarian or peacekeeping effort to ensure efficient, effective and timely response.

3. Mine action

Mine action is an umbrella term that is used to refer to various activities aimed at addressing the risks and the consequences of mines and ERW. The primary goal is to create an environment in which people can live safely, in which economic and social development is unhindered, and in which the medical and socio-economic needs of victims and survivors are addressed.

The International Mine Action Standards (IMAS), which are managed by the United Nations Mine Action Service (UNMAS), guide the planning, implementation and management of mine action programmes. The Standards are available at www.mineactionstandards.org.

Mine action has five main components:

- **Landmine and ERW clearance** includes technical surveying, mapping, marking, clearance, post-clearance documentation, community mine-action liaison and the handover of cleared land.
- **Mine-risk education (MRE)** includes public information campaigns, education and training, as well as community mine-action liaison, aimed at informing individuals and communities of the dangers of landmines. It is essential in all mine-contaminated areas. MRE provides information about the risks associated with landmines and teaches individuals and communities to minimize the risk, for instance when tending fields, fetching food, water or firewood, or accessing education, health care and other public services.
- **Victim assistance** covers care and rehabilitation activities that aim to meet the immediate and long-term needs of landmine survivors, their families and affected communities.
- **Stockpile destruction** is aimed at assisting States in destroying their stockpiles of anti-personnel landmines, by providing support to safe and sustainable stockpile-destruction and mobilization of resources.
- **Advocacy** aimed at promoting the development of and compliance with international legal standards on landmines and ERW, ratification of instruments such as the Anti-Personnel Mine Ban Convention (APMBC), encouraging “good humanitarian donorship” in mine action, and respect for the human rights of mine-affected individuals and communities.

4. The responsibility of the State

The State has the responsibility to ensure the safety of the civilian population and respect for their lives and physical integrity. This includes ensuring full respect for international law and standards on landmines and ERW by its armed forces. The State must play a central role in taking every possible measure to protect civilians from the effects of such weapons, and providing necessary assistance, including medical care and rehabilitation services, to the victims/survivors and their families.

The State should also ensure full implementation of the International Mine Action Standards (IMAS). This includes facilitating access, supporting and contributing to the effective management of de-mining projects, whether carried out by local or international actors. Such activities are often overseen by a specific national mine action authority (NMAA).

5. The role of human rights and humanitarian actors

Mine action requires expertise and should be coordinated by specialized actors. Within the UN system, the United Nations Mine Action Service (UNMAS) carries the responsibility for coordinating all aspects of mine action and for providing mine action assistance in humanitarian emergencies.³ Human rights and humanitarian partners also have an important role to play.



In our work we can ...

Assessment and analysis

(see Part III.1)



- Ensure that protection assessments identify the risks relating to mines and ERW. This requires consultation with security experts, national or international mine-action organizations, local NGOs, displaced and host communities, and where possible armed forces or actors.
- Where there is a risk of mines, notify UNMAS and other specialized agencies to ensure a thorough risk-assessment and the implementation of a mine action programme.

Coordination

- Work with relevant de-mining actors, in particular UNMAS, to ensure that mine action, education and awareness is adequately addressed and coordinated.
- Where appropriate, specialized mine action agencies, such as UNMAS, mine action coordination centres, or national mine action agencies, can be invited to participate in the protection working group. Alternative mechanisms can also be established for cooperation and information sharing.

Shelter

(see Part V.12)



- Ensure that public areas, communal buildings, camps, settlements, and other areas where displaced persons have sought shelter or are provided with assistance or services are assessed and if necessary cleared of mines and ERW prior to being taken into use. The assessment and required mine-clearance should also include access roads, paths, surrounding fields, water points, playgrounds and other places used by civilians, including children.

Protection monitoring

(see Part IV.1)



- In mine-affected areas, work with specialized agencies in order to coordinate monitoring and related activities in connection to mines and ERW. This may, for instance, include supporting monitoring of population movement to allow for advanced mine-action planning or monitoring to ensure that warning signs, posters, and fences are placed in prominent places and left intact.

Health

(see Part V.15)



- Advocate to ensure that victims/survivors and their families have access to medical assistance, medication, psycho-social support, and rehabilitation and reintegration assistance, if needed.

Livelihoods





(see Part V.16)



- Ensure that victims/survivors and their families have access to livelihood opportunities and/or support on equal basis with others. This can include material or financial assistance, for instance in the form of food, NFIs, micro-financing, and so forth.



³ A special framework, the Framework for Mine Action Planning and Rapid Response, which forms part of the UN's Mine Action Strategy, facilitates rapid deployment of mine action capabilities in emergencies. The framework is available from http://mineaction.org/doc.asp?d_336.

<p>Advocacy (see Part IV.3)</p> 	<ul style="list-style-type: none"> • Advocate for ratification of and/or compliance with the Anti-Personnel Mine Ban Convention and other relevant instruments, such as Protocols II and V to the Conventional Weapons Convention, where these have not been ratified and/or implemented. • Advocate with relevant authorities to ensure that victims/survivors of mines and ERW and their families are given access to needed health care, rehabilitation, reintegration and socio-economic support.
<p>Education</p>	<ul style="list-style-type: none"> • Ensure that mine-risk education and awareness is included in school curricula and other education and training activities in mine-affected areas, in particular those aimed at children.
<p>Information (see Part IV.6)</p> 	<ul style="list-style-type: none"> • Provide support for public information campaigns, education and training activities that inform both displaced and host communities about the risks of mines and ways to address or avoid such risks. Mine education and awareness can also be included in other information campaigns and training activities. This can include information related to recognition of mines and ERW and safety precautions. Such activities can, for instance, take place through dissemination of simple leaflets, notice boards, wrapping, water bottles, etc. • Key messages should be illustrated in order to enable children, persons with low literacy skills, and those speaking other languages, to understand.
<p>Durable solutions (see Part VI)</p> 	<ul style="list-style-type: none"> • Get information on the conditions in return or relocation areas to ensure that IDPs can make an informed decision whether or not to return/relocate. • Before an organized return or relocation operation, ensure enough time for an assessment of possible mines and ERW in the areas of destination. • In situations of return or relocation of displaced populations to an area affected by mines, intervene with concerned authorities to ensure clearance before movement takes place. • If IDPs start to return spontaneously, make sure that mine-action agencies are notified to allow for a rapid response, including mine-risk education for returnees.
<p>Technical cooperation and assistance (see Part IV.4)</p> 	<ul style="list-style-type: none"> • Provide support to and facilitate the work of specialized de-mining actors, both national and international. This may include sharing of information, provision of technical support, office support, provision of vehicles and other equipment, and in some cases, financial support.
<p>Safety of staff</p>	<ul style="list-style-type: none"> • Ensure that all staff and partners, including local staff and partners, receive safety training on mines and ERW, when working in mine-affected areas. The Landmine and Explosive Remnants of War Safety Handbook and Training Programme (on a CD), which is available from UNMAS free of charge upon request, is useful in this respect (see www.mineaction.org).

Do you have suggestions about activities or field practices? Share them with us at hqidphb@unhcr.org



6. Key Actors

Mine action should be undertaken and coordinated by specialized agencies, such as UNMAS, with the support of other human rights and humanitarian actors as needed. Key actors include:

- At the **national level**, ministries of defence, the interior, health, education and social welfare; the national mine action authority (NMAA), local NGOs, civil society and religious charities.
- At the **international level**, the key actors are UNMAS and UNICEF (for education and awareness). Other important actors include UNHCR, UNDP, ICRC, WFP, WHO, the Geneva International Centre for Humanitarian Demining (GICHD), NGOs such as Halo Trust, Handicap International, the Swiss Foundation for Mine Action, Mines Advisory Group, DanChurchAid, Norwegian People's Aid, Danish Demining Group, RONCO, Landmine Action UK, and commercial firms engaged in mine action.

7. Legal principles

In general, customary **international humanitarian law** prohibits any means and methods of warfare that are indiscriminate in nature, are directed against civilians or civilian property, and/or cause unnecessary suffering or superfluous injury.

These customary rules do not prohibit the use of landmines and ERW in all instances, but rather place restrictions on their use by parties to a conflict. Several treaties, however, specifically address landmines and ERW, either regulating or prohibiting their use:

Guiding Principle 10: 2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular against: (e) the use of anti personnel landmines (Annex 1).

- The **Convention on Conventional Weapons**⁴ and its Protocols reaffirm the customary rules mentioned above. **Amended Protocol II** on landmines, booby-traps and other devices also commits parties to a conflict to maintain records about the use of such devices, to remove them following the end of active hostilities, and to take all feasible precautions to protect civilians and humanitarian missions and organizations from their effects. **Protocol V** on Explosive Remnants of War similarly commits parties to an armed conflict to maintain records on the use of ERW during hostilities, to mark and clear all ERW in areas under their control, and provide assistance to facilitate removal of ERW in areas not under their control, after the end of hostilities. Parties also commit to taking all feasible precautions to protect civilians and humanitarian efforts from the effects of ERW.
- The **Mine Ban Treaty**⁵ aims to put an end to the suffering and casualties caused by antipersonnel landmines. The treaty, which has been ratified by over 150 States, bans the use, production, and trade of antipersonnel mines, and commits States to destroy their stockpiles, to clear mined areas, provide mine risk education, and ensure adequate assistance, including care, rehabilitation, and social and economic reintegration, to landmine survivors.

International (and regional) human rights law contains a number of provisions that are of relevance for those at risk of becoming victims of mines, as well as for survivors and their families. This includes, in particular, the rights to (and corresponding obligations of the State to

⁴ Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects, 1980.

⁵ Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on Their Destruction (also referred to as the "Ottawa Treaty"), 1997.

ensure respect for) life, personal and physical integrity, freedom of movement, an adequate standard of living, the highest attainable standard of health and health care, and to education.

The **Convention on the Rights of Persons with Disabilities** reaffirms these and other rights and gives useful guidance on ways to ensure that persons with disabilities, including victims/survivors of mines and ERW, can exercise their rights on full and equal basis with others.



References

- *A Guide to Mine Action and Explosive Remnants of War*, Geneva International Centre for Humanitarian De-mining (GICHD), 2007.
www.gichd.org/gichd-publications/guide-to-mine-action-and-explosive-remnants-of-war
- *A Guide to the International Mine Action Standards*, Geneva International Centre for Humanitarian De-mining (GICHD), April 2006 **www.gichd.org/gichd-publications/guide-to-imas**
- *Gender Guidelines for Mine Action Programmes*, UNMAS, 2005 (in five languages).
www.mineaction.org/doc.asp?d=370
- *Framework for Mine Action Planning and Rapid Response*, UNMAS, 2004.
www.mineaction.org/section.asp?s=strategy_and_guidance
- *Landmine and Explosive Remnants of War Safety Handbook and Training Programme: A Manual for People Working in Environments Contaminated by Landmines and other Explosive Remnants of War*, UNMAS, 2005. **www.mineaction.org**



Useful websites

- Electronic Mine Information Network: **www.mineaction.org**
- International and National Mine Action Standards: **www.mineactionstandards.org**
- Geneva International Centre for Humanitarian De-mining: **www.gichd.org**
- International Campaign to Ban Landmines (ICBL): **www.icbl.org**
- Landmine Monitor: **www.icbl.org/lm**
- Landmine Survivors Network: **www.landminesurvivors.org**
- International Committee of the Red Cross (ICRC): **www.icrc.org**

Action Sheet 7

Human Trafficking



Key message

Trafficking in persons is a serious violation of human rights. It is prohibited by international law and, in most cases, national law. All States have an obligation to combat trafficking and protect and assist its victims. Conflict and displacement can heighten the risk of trafficking. Humanitarian actors may play an important role in supporting counter-trafficking efforts through preventive and protective measures.

1. What is trafficking?

Trafficking in persons refers to the recruitment, transportation, transfer, harbouring or receipt of persons by improper means, such as the threat or use of force or other forms of coercion, abduction, fraud, deception, or abuse of power for the purpose of exploitation.¹

Trafficking in the context of the sex trade is well documented and primarily affects women and children who are forced into prostitution and other forms of sexual exploitation. However, trafficking is not limited to the sex trade or to women. It includes various forms of exploitation of others, such as forced labour or services, slavery or practices similar to slavery, servitude, and the forced removal of organs.

Trafficking is distinct from smuggling, which refers to the facilitation, transportation, attempted transportation or illegal entry of a person(s) across an international border.² The main differences are that:

- Smuggling takes place with the consent of the smuggled migrant, while trafficking victims either have never consented or their initial consent has been rendered meaningless because of coercion, deception or abuse at the hands of the traffickers.
- Smuggling usually ends with the arrival of the migrant at their destination, whereas trafficking involves the ongoing exploitation of the victim(s) to generate illicit profits for the traffickers.
- Smuggling is always transnational, whereas trafficking can take place within as well as across a country's borders.

2. Trafficking in the context of internal displacement

Forced displacement can increase the risk of trafficking by weakening or destroying family support structures, community bonds, and self-protection mechanisms that might otherwise serve as a buffer to trafficking. Because internally displaced persons often lack documentation and have limited access to education, livelihoods and self-reliance opportunities, they may be particularly vulnerable to traffickers who appear to offer life-saving access to employment opportunities. IDPs who fear for their lives and wish to seek protection abroad, for instance as refugees, can also fall prey to traffickers who claim to offer a route to safety.

¹ For a comprehensive and legally accurate definition of trafficking please see Art. 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Trafficking in Persons Protocol), which supplements the UN Convention against Transnational Organized Crime (A/RES/55/25 of 15 Nov 2000). Note that as children under 18 are not considered to be in a position to give informed consent and any recruitment, transfer, harbouring or receipt of children for the purpose of exploitation is considered a form of trafficking regardless of the means used.

² Smuggling is the subject of another Protocol to the Convention against Transnational Organized Crime, i.e. the Protocol against the Smuggling of Migrants by Land, Sea and Air.

Traffickers specifically target impoverished communities, including the internally displaced, in order to exploit their vulnerability. Poor and displaced families may entrust the care of their children to traffickers who promise to provide them with education or skills training, but ultimately exploit them for the purposes of prostitution, forced labour or irregular adoption.

Unaccompanied or separated children and children of displaced families, both girls and boys, may also be at particular risk of forced recruitment by armed forces or groups. Often, these risks are further compounded by an inadequate legal framework, weak law enforcement capacity, weak border control, lack of respect for human rights, and domestic violence and abuse, in particular against women and children.

3. The protection implications of trafficking

Trafficking generally takes place in dangerous and degrading conditions and involves a range of human rights violations and abuses. Inherent in trafficking are such forms of severe exploitation as abduction, incarceration, rape, sexual enslavement, enforced prostitution, forced labour, removal of organs, physical beatings, starvation, and the deprivation of medical treatment.

Victims of trafficking are often dependent upon and intimidated by their traffickers, who frequently confiscate their identity documents and keep them confined and isolated, thus limiting their ability to seek assistance or protection from the authorities. Victims may also fear arrest and prosecution for activities they are forced to engage in, such as prostitution or association with armed groups. Where victims have been trafficked into another country, they may fear arrest for illegal entry and face possible deportation to their home countries. Back at home, their lives might be at risk because of ongoing conflict and displacement or threats of retaliation from the traffickers. In addition, victims of sexual exploitation might also feel shame and fear to be ostracized, discriminated against or punished by their family, community or the authorities.

4. Individuals and groups at particular risk

Unaccompanied internally displaced children, child heads-of-households, single (especially female) heads-of-households, young girls, and former victims/survivors of trafficking are particularly vulnerable to the risks of trafficking.

Children are often trafficked for child-specific forms of exploitation, such as illegal adoption, child labour, child prostitution, child pornography, and forced recruitment into armed forces or groups. Other forms of exploitation to which children are often exposed include domestic service, agricultural work, mining, forced and early marriage, and begging. It is important to note that any recruitment, transfer, harbouring or receipt of children for the purpose of exploitation is considered a form of trafficking regardless of the means used.



5. Key legal principles

Trafficking is prohibited by **international (and regional) human rights law** and criminalized in the national legislation of a growing number of states. It is generally considered to amount to a form of slavery, and constitutes a violation of a range of human rights, most notably the right to freedom from slavery and slave-like practices³; to personal liberty and security; to freedom from torture and other cruel, inhuman or degrading treatment or punishment; and to freedom of

³ The prohibition against slavery and slave-like practices is a peremptory norm of international law and a rule of customary international law. It is also widely prohibited in treaty law, including, at the international level, in: Art. 4 of UDHR; Art. 8 of ICCPR; Arts. 10, 19, 21 and 32 of ICESCR; Art. 6 of CEDAW; Art. 11 of CMW; in the 1926 Slavery Convention and its Protocol; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery; and ILO Conventions No. 29 (Forced Labour), No. 105 (Abolition of Forced Labour); No. 182 (Worst Forms of Child Labour), and No. 138 (Minimum Age Convention). See also GA Res 57/176 of 18 Dec 2002 on Trafficking in Women and Girls. At the regional level it is similarly prohibited in Art. 5 of AfCHPR and Art. 4 of its Protocol on the Rights of Women in Africa; Art. 6 of AmCHR; in Art. 11(a) of the Cairo Declaration on Human Rights in Islam; Art. 31 of ArCHR; and Art. 4 of ECHR.

movement. It also infringes a number of other rights, such as the right to respect for the family; the right to an adequate standard of living; to the highest attainable standard of health; and to favorable working conditions, including just compensation and reasonable working hours. Trafficking also violates a number of international legal principles relating to the protection of children from forced labour and social and economic exploitation and abuse.⁴

Trafficking is also specifically prohibited by the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (*'Trafficking in Persons Protocol'*), which supplements the UN Convention against Transnational Organized Crime. The Protocol, which seeks to prevent and combat trafficking in persons and facilitate international cooperation against such trafficking, defines criminal activities relating to trafficking, guides States on ways to combat them, and provides guidance on some aspects of victim protection.

Trafficking is criminalized in the national legislation of a growing number of states, including through national criminal and labour law codes.

International humanitarian law similarly prohibits slavery and the slave trade in all its forms as well as a number of other acts to which victims of trafficking are often subjected, including torture, cruel or inhuman treatment and outrage upon personal dignity; rape and others forms of sexual violence; uncompensated or abusive labour; and arbitrary deprivation of liberty.⁵ Depending on the circumstances, trafficking may constitute a crime against humanity and, in armed conflict, a war crime.⁶

6. The responsibilities of the State

All States have a responsibility to prevent trafficking, to investigate and prosecute traffickers, and to protect, assist and provide adequate redress to the victims. Respect for human rights and the best interests of the victims should be at the centre of all such efforts. The role and responsibilities of the State are further outlined in the Trafficking in Persons Protocol as well as in the Recommended Principles and Guidelines on Human Rights and Human Trafficking.⁷ States that should, for instance:

- Take all **appropriate national, bilateral and multilateral measures** to prevent trafficking for any purpose or in any form, in particular of children.
- Enact domestic laws to **criminalize trafficking** and ensure the prompt **investigation and prosecution** of traffickers. Efforts must be made to ensure confidentiality and provide adequate protection to victims and witnesses who assist with legal proceedings.
- Provide **protection and assistance to trafficked persons** and ensure that they receive just compensation for the harm suffered. The Protocol also encourages States to provide access to social benefits, such as housing, medical care, counseling, and legal assistance, paying attention to age and gender and the specific needs of the victims.
- Develop comprehensive **policies and programmes** to prevent and combat trafficking and protect victims from re-victimization. This can include research, mass media campaigns, social and economic initiatives, and measures to address risk factors to trafficking, such as poverty, discrimination, and lack of equal opportunities.

⁴ See Art. 10(3) of ICESCR; Arts. 11, 19, 32, 34, 36 and 39 of CRC and its Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography; ILO Conventions No. 138 (Minimum Age Convention) and No. 182 (Worst Forms of Child Labour Convention). See also, at the regional level, Arts. 24 and 29 of ACRWC; and the Inter-American Convention on International Traffic in Minors.

⁵ See Rules 90, 93 94, 95 and 99 of Customary International Law, Volume I: Rules (ICRC, 2005) as well as Common Art. 3 of the Geneva Conventions, Art. 4(2)(f) of Additional Protocol II; and Arts. 75 and 76 of Additional Protocol I.

⁶ See e.g. Articles 7(1)(c), 7(1)(g), 7(2)(c) and 8(2)(xxii) of the Statute of the International Criminal Court, which define "enslavement," "sexual slavery" and "enforced prostitution" as crimes against humanity and war crimes.

⁷ Recommended Principles and Guidelines on Human Rights and Human Trafficking, OHCHR, 2002 (E/2002/68/Add. 1)

- **Cooperate** with other states, non-governmental organizations and other elements of society to address trafficking.
- **Implement security and border controls** to detect and prevent trafficking. States should ensure that their own border controls are effective and take measures to prevent the misuse of passports and other travel or identification documents.
- Take measures to **discourage the demand for services** that fosters the exploitive element of trafficking and provides its major source of illicit revenue.

7. The role of human rights and humanitarian actors




While primary responsibility for combating trafficking rests with the State, human rights and humanitarian actors also play an important role. A comprehensive and well-coordinated counter-trafficking strategy, involving all relevant sectors and actors, including the authorities, should thus form part of the protection response in most humanitarian settings. The *UNODC Toolkit to Combat Trafficking in Persons*,⁸ together with *Recommended Principles and Guidelines on Human Rights and Human Trafficking*,⁹ provide useful guidance in this regard. The table below also gives some ideas about possible activities.



In our work we can ...	
Assessment <i>(see Part III.1)</i> 	<ul style="list-style-type: none"> • Ensure that protection assessments identify existing risks of trafficking within a given community as well as any factors that can increase exposure to trafficking; the individuals most at risk; the adequacy of the national response; existing formal and informal coping mechanisms, and ways to support these.
Information and community mobilization <i>(see Parts IV.10 and IV.6)</i> 	<ul style="list-style-type: none"> • Raise awareness in the community about the risks associated with trafficking. This can, for instance, be done by facilitating public discussion and dialogue, by supporting community groups working on the issue, and engaging in public information activities together with other partners. • Support community-based groups and networks that can monitor the threat of trafficking, take action to prevent it, and support the recovery and reintegration of victims.
Referral and response mechanisms	<ul style="list-style-type: none"> • Coordinate with relevant actors to ensure the establishment and maintenance of effective referral and response mechanisms at the local and national levels, including in camps and settlements.
Interim care and support <i>(see Part IV.11)</i> 	<ul style="list-style-type: none"> • Ensure that victims of trafficking are safe and are given access to appropriate care and services (health-care, psycho-social and legal counseling, education and skills-training) as well as necessary material support (safe and appropriate shelter, food and non-food items). Such support should take into account age, gender and any specific needs. • Alternative care arrangements may need to be found for unaccompanied children: under no circumstances should child victims of trafficking be detained or accommodated in detention facilities.
Training	<ul style="list-style-type: none"> • Provide training on human rights and on prevention and response to trafficking, to relevant actors, such as IDP communities, law enforcement agencies, the judiciary, NGOs, and UN and peacekeeping forces, where these are deployed. This should include guidance on confidentiality and on working with child victims of trafficking.

⁸ Toolkit to Combat Trafficking in Persons, UN Office on Drugs and Crime, 2006.

⁹ Recommended Principles and Guidelines on Human Rights and Human Trafficking, OHCHR, 2002 (E/2002/68/Add. 1).

Legal review	<ul style="list-style-type: none"> Review national legislation and its enforcement and assess to what extent it prevents and adequately responds to risks of trafficking, including as regards the recovery and reintegration of victims of trafficking. As appropriate, advocate with national authorities for improvements in legislation, policy or practice in this field. Ensure that all relevant actors, including those working on GBV prevention and response, are familiar with relevant national laws and regulations relating to trafficking. National labour legislation might also provide extensive recourse in situations of forced and compulsory labour.
Legal aid <i>(see Part IV.5)</i> 	<ul style="list-style-type: none"> Ensure that victims of trafficking have access to affordable and adequate legal counseling and assistance. This includes both those victims that wish to seek compensation or payment of legally due wages, and those that have been charged with offences, such as illegal prostitution.
Livelihoods <i>(see Part V.15)</i> 	<ul style="list-style-type: none"> Work with the community to identify livelihood and income-generating opportunities to strengthen self-reliance and reduce the risk of trafficking. Pay particular attention to groups at risk, such as separated and unaccompanied children, single- (female) headed-households, and prior victims of trafficking. This can, for instance, include ensuring full and equal access to education for children and adolescents.
Victim and witness protection	<ul style="list-style-type: none"> Encourage national authorities to develop adequate witness-protection measures for the benefit of any victims who cooperate in criminal prosecutions. Such protection might need to be extended to other family members.
Family tracing and reunification <i>(see Part V.8)</i> 	<ul style="list-style-type: none"> Work with relevant partners, such as ICRC and UNICEF, to ensure that separated or unaccompanied children are rapidly identified, registered and documented, that best interests determination is conducted, and that family tracing and reunification takes place or alternative care arrangements are made, as appropriate.
<p>Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org</p>	



8. Key actors

A number of actors play an important role in combating trafficking and providing assistance to victims/survivors:

- At the **national level**: internally displaced and host communities; law enforcement agencies, Ministries of Justice, Labour and Social Services, and local NGOs and civil society.
- At the **international level**: UNODC, ILO, UNICEF, IOM, UNHCR, OHCHR, various international NGOs, and peacekeeping forces, where present.
- In addition, at the **regional level**, a number of consortiums and initiatives have been created including: in **Asia**, the Asia Regional Initiative against Trafficking in Women and Children; the Association of Southeast Asian Nations' Declaration against Trafficking in Persons Particularly Women and Children; the Asia-Europe Meeting's Action Plan to Combat against Trafficking in Persons, Especially Women and Children; in **Africa**, the Economic Community of West African States' Initial Plan of Action against Trafficking in Persons; in the **Americas**, the Regional Conference on Migration (formerly known as the "Puebla Process"); and in **Europe**, the Organization for Security and Co-Operation in Europe (OSCE) and its Action Plan to Combat Trafficking of Human Beings, Office for Democratic Institutions and Human Rights (ODIHR), and the OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings



References

- *Guidelines on the Protection of Child Victims of Trafficking*, UNICEF. http://www.unicef.org/ceecis/UNICEF_Child_Trafficking146-198.pdf
- *Handbook on Direct Assistance for Victims of Trafficking*, IOM. <http://www.iom.int/jahia/page8.html>
- *Toolkit to Combat Trafficking in Persons*, UN Office on Drugs and Crime, 2006. www.unodc.org/pdf/Trafficking_toolkit_Oct06.pdf (in 5 languages)
- *Ethical and Safety Recommendations for Interviewing Trafficked Women*, WHO, 2003. www.who.int
- *Recommended Principles and Guidelines on Human Rights and Human Trafficking*, OHCHR, E/2002/68/Add.1, 20 May 2002. www.ohchr.org/english/about/publications/docs/trafficking.doc.
- *Reference Guide on Protecting the Rights of Child Victims of Trafficking in Europe*, UNICEF. Available at http://www.unicef.org/ceecis/protection_4440.html
- *OSCE Action Plan to Combat Trafficking in Human Beings* (Permanent Council Decision No. 557 and No. 685) www.osce.org/cthb/13408.html
- *Child-friendly Standards and Guidelines for the Recovery and Integration of Trafficked Children*, ILO 2006. www.ilo.org
- *Guidelines on the Application of Art 1A(2) of the 1951 Convention and/or 1967 Protocol, relating to the Status of Refugees to the victims of trafficking and persons at risk of being trafficked*, UNHCR, HCR/GIP/06/07, 7 April 2006. www.refworld.org



Useful websites

- United Nations for Drug and Crime (UNODC): www.unodc.org
- International Organization for Migration (IOM): www.iom.int
- United Nations Children Fund (UNICEF): www.unicef.org
- International Labour Organization (ILO): www.ilo.org
- United Nations High Commissioner for Human Rights (OHCHR): www.ohchr.org
- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org
- Organization for Security and Co-operation in Europe (OSCE): www.osce.org. See also the OSCE Office for Democratic Institutions and Human Rights (ODIHR): www.osce.org/odihr and OSCE Special Representative and Co-ordinator for Combating Trafficking in Human Beings www.osce.org/cthb
- Special Rapporteur of the Human Rights Council on trafficking in persons, especially in women and children: www.ohchr.org/english/issues/trafficking/index.htm

Action Sheet 8

Liberty and Freedom of Movement



Key message

The ability to move freely and in safety within one's country is a basic right as well as a pre-condition for the enjoyment of many other rights. Limitations on freedom of movement can have serious consequences for the lives, health and well-being of individuals and communities. Ensuring freedom of movement thus forms an important part of any protection strategy.

1. What do we mean by the term freedom of movement?

Freedom of movement consists of the right and ability to move and choose one's residence freely and in safety within the territory of the State, regardless of the purpose of the move. It also includes the right to leave any country and to return to one's own country. It is closely related to the right to liberty and security of person, which guarantees freedom from arbitrary arrest and detention, and the right to seek asylum in another country. Taken together these rights mean that all persons, including the internally displaced, have the right to:

- **Take flight and seek safety** in another part of the country (of choice), or to leave the country in order to seek asylum in another country.
- **Move freely and in safety** within the country, including in and out of camps and settlements, regardless of the purpose of the move.
- **Voluntarily return** to the place of origin **or relocate** to another part of the country.
- **Not be arbitrarily displaced or forced to return or relocate** to another part of the country.
- **Not be arbitrarily arrested or detained or forced to reside in specific camps or settlements.**

Lack of freedom of movement can have serious **consequences** for the lives, health and well being of displaced individuals and communities. It not only limits their ability to flee and seek safety from the effects of conflict or serious human rights abuses but furthermore impedes their ability to secure a sustainable livelihood. Lack of freedom of movement can result in limited access to work, markets, land and basic necessities (food, water, firewood) as well as life-saving public services, such as education and health care. It may also lead to the separation of families and pose obstacles to family reunification. Overall it is likely to result in increased poverty, marginalization and dependency on humanitarian aid.

2. Freedom of movement in the context of internal displacement


The ability to move freely and in safety is of particular importance for internally displaced persons, who often live in or near areas of conflict, or reside in camps and settlements where access to sustainable livelihoods is limited and threats to life, safety and security frequent. Various obstacles may limit their freedom of movement. These include (1) practical barriers; (2) legal or administrative restrictions; (3) forced encampment; (4) forced population movement; (5) and arbitrary arrest and detention.

2.1 Practical barriers

Practical barriers take different forms, depending on the context, but can include:

- **Lack of safety and security** stemming from crime, armed conflict, generalized violence or the presence of landmines and unexploded ordnance. Such factors can affect the

internally displaced disproportionately or they may be targeted because of perceived association with political factions or parties to a conflict.

- **Lack or loss of identity or travel documents** can limit freedom of movement and expose displaced persons to harassment, extortion, arbitrary arrest or detention. Replacement documentation is often difficult or impossible to obtain, for instance owing to strict administrative requirements, high fees or discriminatory practices. Displaced persons may also be obliged to return to their areas of origin despite the dangers involved in order to obtain new documentation (see Part V.1). 
- **Discrimination** on the basis of gender, ethnic origin, political opinion, religion or other status, such as that of being displaced, can curtail freedom of movement. As an example, women and girls are frequently barred from obtaining documentation in their own names and may be prevented from traveling except with the permission of or in the company of male relatives.
- **Lack of adequate infrastructure**, including damaged roads and bridges, lack of safe and affordable **transport**, and poor **physical condition** owing to age, ill-health or disability, can also limit people's ability to travel.

2.2 Legal or administrative restrictions

Legal or administrative restrictions on freedom of movement by local or national authorities are often used to monitor or control movement within a country's borders. Restrictions are **subject to strict criteria under human rights law**. They must be provided for by law, be considered necessary and proportionate to achieve a legitimate aim (such as protect national security or public order, health or morals, or the rights or freedoms of others), and be non-discriminatory and consistent with other human rights.

In situations of displacement restrictions have sometimes been implemented in an arbitrary or discriminatory manner or been used for unlawful purposes, including to isolate or marginalize the displaced population. Common restrictions include:

- **General travel restrictions**, either legal or administrative, which regulate movement within the country, for instance from rural to urban areas. These can include curfews, restricted traveling hours or days, or strict travel criteria, such as need for specific documentation or travel permits. Such restrictions often disproportionately affect displaced persons, for instance owing to lack or loss of documentation.
- **Targeted travel restrictions**, e.g. on movement in and out of camps or settlements for displaced persons. These can include curfews, restrictive traveling hours or days, restrictions on travel distances, strict exit/entry criteria, and documentation requirements. Such restrictions are often imposed to deal with perceived or actual security threats but frequently violate the rights of those residing in the area.

Whenever restrictions are imposed by the State it must ensure that these comply with the criteria mentioned above. As an example, where documentation or travel permission are required, the State should ensure that these can be obtained without delay or hardship and that they are not subject to unreasonable requirements or high fees.

2.3 Forced encampment

In some countries, internally displaced persons have been forced to reside in special IDP camps or settlements, often despite the fact that they might prefer to seek shelter with members of their family, friends, or extended community. Such camps or settlements are often poor, over-crowded and located in remote areas where access to sustainable livelihoods, basic necessities and vital services are limited or lacking entirely.

As a general rule, internally displaced persons should be able to reside where they choose. Forced encampment, with few exceptions, is likely to constitute a grave violation of a number of human rights, including the right to freedom of movement. It may also amount to *de facto* detention in violation of the right to liberty and security.

2.4 Arbitrary displacement, forced return or relocation

Forced population movements have regrettably been used by both political and military factions to displace individuals and communities, gain control over land and natural resources, or to collectively punish a certain population group for alleged support for opposing factions. Forced population movement, as a general rule, is prohibited. It can only be lawful in a limited number of cases, such as to safeguard public safety or interest, or for reasons of military necessity, in which case it must take place in safety and meet certain minimum standards, as described in the legal section below.

The principle of voluntariness of movement entails that:

- The decision is made freely (without duress, compulsion or undue influence);
- The decision is based on accurate, objective information; and
- The decision is made expressly and individually (women on equal footing with men).

It can be difficult at times to assess the voluntariness of movement, in particular in the context of large-scale return or relocation. Displaced populations may be vulnerable to outside influence or manipulation or may lack information and access to adequate food, water, shelter and other necessities. As a result they may feel compelled to return or relocate although it may not be safe to do so. Conversely, some persons may feel compelled to stay although conditions for a safe and sustainable return exist. The voluntariness of movement needs to be assessed as thoroughly as possible in each given case.

2.5 Arbitrary arrest and detention

Arbitrary arrest and detention, and ill-treatment while in detention, is a serious problem in many countries. Such abuse can affect internally displaced persons disproportionately because of discrimination, distrust, stigma and/or lack or loss of documentation proving legal identity. This is frequently the case in countries where displacement has been motivated by political or ethnic factors. Poverty and marginalization can also force individuals to adopt survival strategies, such as brewing alcohol, trading goods without permission or survival sex, which breach national law and thus place them at increased risk of arrest and detention.

While the State has the right and indeed the duty to maintain law and order, including through powers of arrest and detention, such powers must be exercised in accordance with the law and with respect for human rights. As an example, all detainees must be treated humanely, be informed of any charges against them in a language they understand, and be given the opportunity to contest the lawfulness of the arrest before a judge. Any form of torture or ill treatment, including rape, beating or excessive use of solitary confinement, is prohibited at all times.

3. Individuals and groups at particular risk

Different groups may experience different obstacles or violations of freedom of movement. For instance, women and girls are often discriminated against, prevented from obtaining documentation in their own name, or harassed or subjected to sexual violence when traveling alone. Men and boys, however, may be more likely to be arbitrarily arrested and detained, forcibly recruited into armed forces/groups, or placed at risk of extra-judicial and summary executions. Ethnic and religious minorities and stateless persons, as well as persons with

special needs, such as unaccompanied and separated children, older persons, and persons living with disability or disease, often face additional difficulties.

4. The responsibility of the state

The national authorities carry primary responsibility for respecting and ensuring respect for the rights to freedom of movement, liberty and security of person. This means that the State must ensure that these rights are adequately protected in national legislation and respected by all agents of the State at the national, regional and local levels. The State must also take action to ensure that freedom of movement is not limited by third parties and that any obstacles to the full enjoyment of the right are adequately addressed.

5. The role of human rights and humanitarian actors

Human rights and humanitarian actors can play an important role in ensuring freedom of movement and respect for other human rights through advocacy, monitoring and capacity-building efforts, both with the authorities and with displaced individuals and communities.



In our work we can ...

Assessment and analysis

(see Part III.1)



- Work with displaced communities and relevant colleagues, including security experts, to identify and assess obstacles to freedom of movement, liberty and security, and the ways in which these can be addressed.

Presence

(see Part IV.2)



- Ensure regular visits and visible presence of protection staff in areas or locations where freedom of movement and other rights are frequently violated. This may, for instance, include checkpoints, exit/entry points into camps and villages, roads and paths leading to markets, schools, and other public spaces.

Advocacy

(see Part IV.3)



- Advocate for and sensitize relevant actors, including national and local authorities and non-State actors, to the importance of respecting freedom of movement, liberty and security, and the prohibition on forced and arbitrary displacement, return or relocation of any kind.

Documentation

(see Part V.2)



- Work with relevant authorities to ensure that IDPs have safe and effective access to documentation and/or replacement documentation, that strict documentation requirements are eased or suspended for IDPs, and that those without documentation are not arbitrarily arrested and detained. In some cases, modest financial or material assistance might be appropriate in order to assist local authorities to issue or replace lost documentation.

Information

(see Part IV.6)






- Ensure that IDPs have access to information about the security situation and other factors that may affect their ability to move freely and in safety. In the context of return or relocation, this includes information about travel conditions and conditions in the place of return or intended relocation. Where appropriate, “go and see” visits can be arranged.

Community mobilization

(see Part IV.10).



- Work with the community to identify obstacles and take steps to strengthen its ability to move freely and in safety. This can, for instance, include safe transportation; joint travel or transportation to markets, schools, and clinics; joint collection of food, water and firewood; accompanied travel, for instance for women and children; and assisted travel, for example for older persons or persons with disabilities.

<p>Safety and security (see Part V.3) </p>	<ul style="list-style-type: none"> • Negotiate for and support efforts to improve safety and security in and around camps, settlements and urban IDP areas. This may, for instance, include an increase in the number of civilian police and, if present, patrolling by peacekeeping forces. To safeguard their civilian character, military forces should be involved only on an exceptional basis and never within, or in the immediate vicinity of, such areas.
<p>Mine action (see Part V.6) </p>	<ul style="list-style-type: none"> • Coordinate with de-mining experts and other partners, including local authorities and displaced communities, to ensure early identification, marking and de-mining of areas inhabited by IDPs, and provide support for mine-awareness and education activities aimed at both the displaced and the wider population.
<p>Transport</p>	<ul style="list-style-type: none"> • Advocate for and assist the authorities to improve road infrastructure and public transport to enable displaced individuals and communities to seek work, access markets, tend fields, and access education and health care. This can, for instance, include repairing roads or bridges, loaning or donating vehicles, and modest financial or material assistance, for instance in the form of fuel. • Consider providing modest financial or other assistance to persons in need or at particular risk to enable them to travel, for instance to work or attend schools or health clinics.
<p>Persons in detention (see Part V.8). </p>	<ul style="list-style-type: none"> • Ensure that effective monitoring mechanisms are established to monitor that conditions in detention and the treatment of individuals deprived of their liberty meet established minimum standards. Such activities should be undertaken in close cooperation with the ICRC or other actors with expertise of monitoring prison conditions. Where needed modest financial or material assistance can be provided to improve prison conditions and services. • Make interventions on behalf of individuals who have been arbitrarily arrested or detained. This can, for instance, include legal advice and assistance, as well as advocacy with relevant authorities to ensure respect for relevant rights, including the right not to be arbitrarily arrested or detained, to be informed of any charges, be brought before a judge to challenge the lawfulness of detention, and to a fair trial.
<p>Durable solutions (see Part VI) </p>	<ul style="list-style-type: none"> • Monitor return and relocation movements to ensure these are informed and voluntary, and that minimum standards relating to safety and security, as well as the provision of basic necessities, are met. Where such movement is deemed to be involuntary, in part or in whole, ensure that it is monitored, documented and reported to all relevant stakeholders, including in particular the protection working group and the Humanitarian/Resident Coordinator. • Advocate for and support developmental projects that aim to restore or rehabilitate damaged infrastructure (roads, bridges) or public services (schools, health clinics, community centres) that facilitate voluntary return, resettlement or integration in the area of displacement.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org

6. Key legal principles

6.1 Freedom of movement

International (and regional) human rights law guarantees everyone the right to freedom of movement and residence within the borders of the State, and the right to leave and enter one's own country.¹ It consists of the right to move and choose one's residence, freely and in safety, without undue influence or interference from the State, regardless of the length of stay or the reason or purpose of the move.

While States might have a legitimate interest in controlling or monitoring the movement of people in their territory, such restrictions are only permissible if they meet the established criteria of: (i) being provided for and being in accordance with law; (ii) being necessary to achieve a legitimate aim, such as protecting national security, public order, public health or morals or protecting the rights and freedoms of others; and (iii) being consistent with other human rights, particularly the right to non-discrimination, and the State's other international legal obligations.

Women and girls are entitled to equal respect of freedom of movement and residence, and States are obliged to take all necessary measures to ensure that they can exercise this right on equal basis with men and boys.²

The right to freedom of movement is also closely related to, and often a prerequisite for the enjoyment of, other human rights, including the rights to life, liberty and security, to an adequate standard of living, including health, food and water, and to property. It is also closely related to the right to seek asylum from persecution in another State.³

International humanitarian law forbids parties to the conflict to order the displacement of the civilian population in whole or in part, unless their security or imperative military reasons so demand, and requires that displaced persons be allowed to voluntarily return in safety as soon as those reasons cease to exist. The law also requires that all possible measures be taken to protect any property left behind and ensure satisfactory conditions while in displacement, including shelter, hygiene, health, safety, nutrition and family unity.⁴

Guiding Principles (Annex 1)

Principle 14: 1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence. 2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15: Internally displaced persons have: (a) The right to seek safety in another part of the country; (b) The right to leave their country; (c) The right to seek asylum in another country; and (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

¹ See, at the international level, Art. 13 of UDHR; Art. 12 of ICCPR; Art. 5(d)(i) and (f) of ICERD; Art. 15 of CEDAW; and, at the regional level, Art. 12 of AfCHPR; Art. 22 of AmCHR; Arts. 20 and 21 of ArCHR; and Art. 2 of Protocol 4 to ECHR.

² See e.g. Art. 15 of CEDAW. See also General Comment of the Human Rights Committee No. 27(1999) on freedom of movement (para. 6) and No. 28(2000) on equality of rights between men and women (s.16).

³ See, in particular, at the international level, the 1951 Convention on the Status of Refugees and its 1967 Protocol, and Art. 14 of UDHR, and at the regional level, Art. 12(3) of AfCHPR; Art. 23 of AfCRWC; Art. 22(7) of AmCHR; and Art. 23 of ArCHR.

⁴ See e.g. Rules 129-132 of *Customary International Humanitarian Law* Volume I: Rules (ICRC, 2005). See also Art. 49 of the Fourth Geneva Convention and Arts. 4(3)(b) and 17 of Additional Protocol II.

6.2 The right to liberty and security of person

International (and regional) human rights law guarantees the right to liberty and security of person.⁵ This includes a prohibition on arbitrary arrest and detention as well as any other deprivation of liberty that is not based on and in accordance with the law. The right also includes the right to (i) be informed immediately of the reasons for arrest; (ii) be brought promptly before a judge; (iii) be able to challenge the lawfulness of detention; (iv) be brought to trial or released within a reasonable time; and, (v) in case of unlawful arrest or detention, a right to compensation. The law also calls for humane treatment and respect for other human rights while in detention.

Guiding Principles (Annex 1)

Principle 12: 1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. 2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances. 3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement. 4. In no case shall internally displaced persons be taken hostage.

The UN *Basic Principles for the Treatment of Prisoners*, the UN *Standard Minimum Rules for the Treatment of Prisoners*, and the UN *Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment* provide useful and more detailed information about the standards that should be followed.⁶

International humanitarian law prohibits arbitrary deprivation of liberty, i.e., detention that is not based on and in accordance with the law.⁷ It also establishes extensive safeguards for the treatment of detainees during times of armed conflict.⁸ In particular, they must be provided with adequate food, water, clothing, shelter and medical attention, and be allowed to correspond with and receive visits from their families. Violations of these rules might amount to inhuman treatment, which may constitute a war crime. Women and children should also be kept separate from adult men, except where families are accommodated as family units.



References

- General Comments No. 27(1999) on **freedom of movement** (Art. 12); No. 21(1992) replaces general comment No. 9 concerning **humane treatment of persons deprived of liberty** (Art. 10); and No. 8(1982) on the **right to liberty and security of persons** (Art. 9) of the Human Rights Committee: www.ohchr.org/english/bodies/hrc/comments.htm.
- **Protection of detainees:** “Action Behind Bars,” Alain Aeschlimann, *International Review of the Red Cross*, Vol. 87, No. 857, International Committee of the Red Cross, Geneva, March 2005: www.icrc.org.

⁵ At the international level, see e.g. Art. 3 of UDHR; Art. 9 of ICCPR; Art. 5(b) of ICERD; Arts. 9(4) and 37 of CRC, and at the regional level, Art. 6 of AfCHPR; Art. 7 of AmCHR; Art. 4(c) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women; Art. 8 of ArCHR; and Art. 5 of ECHR.

⁶ These are available www.ohchr.org/english/law.

⁷ See Rule 99 of *Customary International Humanitarian Law* Volume I: Rules (ICRC, 2005).

⁸ See Rules 87 and 118-128 of *Customary International Humanitarian Law* Volume I: Rules (ICRC, 2005). See also Common Art. 3 to the Geneva Conventions.

Action Sheet 9

Family Unity



Key message

The family is a fundamental social unit which is entitled to special respect and protection. The family is also an important source of protection in itself. It unites individuals and provides important physical, social, legal, material and emotional stability and support to its members, in particular for children. Efforts aimed at preserving the unity of the family can prevent exposure to various risks and help individuals and communities rebuild their lives and minimize the adverse effects of displacement.

The **Inter-Agency Guiding Principles on Unaccompanied and Separated Children** provide guidance on preventing family separation, undertaking family tracing and reunification, and ensuring adequate care arrangements for unaccompanied children pending reunification. The Principles are available from www.refworld.org. This chapter provides basic guidance but does not replace or duplicate the Principles, which should be implemented in all emergencies.

1. What is a family?

There is no universally accepted definition of the family and the meaning of the term may differ from one country to another. In some cultures the term refers to parents and their children only; in others it includes a larger group of extended family members. It is important to understand and respect such differences and **adopt a working definition that suits the context**.

- Use a **practical, flexible and comprehensive** definition that extends beyond the nuclear family in order to include relationships of social, emotional or material dependency. In some cases, this may include individuals who are not blood relatives.
- Use **appropriate and realistic criteria** relating to documents and other evidence that may be required to demonstrate a family connection. Internally displaced persons have often lost personal documents and alternative methods may need to be developed to confirm family connections.
- Use a **broad definition of terms** such as “spouse” and “dependent child”. As an example:
 - “Spouse” should not be restricted to persons in legal unions only but extend to those who are engaged, have entered into a customary marriage, or have formed a household (cohabitation/common law couples). It may also include same sex partnerships and spouses in a polygamous marriage.
 - A dependent child is normally defined as any unmarried child under the age of 18. However, in some cases, children over 18 could be included, for instance if they remain dependent upon and continue to share a household with their parents. No distinction should be made between children born in and outside of marriage.

2. Family separation in the context of internal displacement

Families and communities are frequently torn apart as a result of forced displacement. Such separation can occur deliberately, for instance where parents entrust the care of their children to others, often in the belief it will be in their best interests, or accidentally, including during flight or when seeking shelter and assistance in large or crowded camps, settlements and urban areas. Internally displaced persons are often forced to flee on short notice and family members, in particular young children, older relatives or persons with disabilities, may be left behind or become separated on the way.

Separation can also occur as a result of well-meaning but ill-conceived or even unlawful, humanitarian interventions. By way of example, evacuating children or facilitating adoption arrangements can lead to forced and permanent separation of children from their parents. Providing them with shelter and other assistance without making arrangements for their parents or care-givers can also lead to separation. Humanitarian actors must always act to ensure that children are not separated from their parents against their will or against their best interest.¹

Separation from family members and lack of knowledge about the fate and whereabouts of loved ones can give rise to grief, anxiety and depression. It can also expose individuals to various, but different, protection risks depending on their age, gender and specific needs:

- **Women and girls** often suffer as a result of discrimination and lack of access to land, shelter, public services or documentation in their own name. Separation may also place them at increased risk of various forms of gender-based violence, including sexual abuse and exploitation.
- **Men and boys** are often at increased risk of harassment, arbitrary arrest and detention, and/or forced recruitment into armed forces or groups.
- **Girls and boys** face a wide range of protection risks as a result of separation from their families or caregivers, including neglect, abuse and exploitation, forced labour, slavery, trafficking, limited access to education, and forcible recruitment into armed forces or groups.
- **Older persons**, which may have limited ability to move or secure a livelihood, may be exposed to hunger or disease, and in some cases may suffer abuse and exploitation.
- **Persons with disabilities** may face obstacles when trying to move, seeking shelter, or accessing assistance and services, including health care.

Did you know that...

- A **child** is any person under the age of 18, unless majority is attained earlier under national law.
- A **separated child** is any child that has been separated from both parents, or from other legal or customary primary care giver, but not necessarily from other relatives.
- An **unaccompanied child** is any child that has been separated from both parents and other relatives and that is not being cared for by an adult who, by law or custom, is responsible for doing so.
- An **orphan** is a child whose parents, both mother and father, are deceased. This requires careful verification and must never be assumed. Referring to a child as “orphan” should be avoided until the fate of his or her parents, and other legal or customary primary care givers, has been conclusively determined.

Separated family members can face a number of obstacles when trying to trace and reunite with their families. Factors such as ongoing conflict and insecurity, collapse of institutions and infrastructure, lack of freedom of movement and means of communication, and responsibility toward other family members, can limit the ability to search for and unite with separated family members. Young children, older persons and persons with disabilities face particular obstacles in this regard. In some cases, separated family members may find themselves on different sides of a frontline or a border, which can make tracing and reunification very difficult.

3. Preventing and responding to family separation

Separated families and communities usually make significant efforts to find and reunite lost family members and such efforts should be supported where possible. Local and national authorities, as well as human rights and humanitarian actors, also play an important role in preventing and responding to family separation. Such activities can be divided into four categories:

¹ See reference to best interests of the child and Best Interest Determination (BID) Procedures under section 3 of this chapter.

- **Prevention** (*to be undertaken at all times*)
- **Identification, registration and documentation** (*to be undertaken from the beginning of displacement and continue until displacement has come to an end*)
- **Tracing, verification and reunification** (*to be undertaken by specialized agencies only*)
- **Temporary assistance and/or alternative care arrangements** (*to be provided if and as required*)

Several key principles should guide all efforts to prevent family separation and ensure family unity, in particular in cases involving children.

- **Respect for human rights, including the principle of family unity** — All men and women have the right to found a family and have their right to respect for the family observed. This requires efforts to prevent separation and to ensure rapid tracing and reunification in case it occurs, even in times of conflict and displacement.
- **Principle of non-discrimination** – Any direct or indirect discrimination, for instance on the basis of age, gender, ethnic or linguistic background, political opinion, birth or other status, including that of being displaced, is prohibited. In order to ensure full and equal access to assistance and services, efforts must however be made to meet any specific needs, including those of women and girls.
- **Participation, including that of children** – Separated family members should be informed about the relevant procedures and kept updated about any progress made. Their informed consent should be sought for the sharing of personal information and for reunification to take place. The child’s right to participation should also be respected and his/her opinion given due weight, taking into account the child’s age and maturity. Children may need to be interviewed by trained staff with experience of working with children.
- **Best interests of the child** —. The principle arising from Article 3 of the Convention of the Rights of the Child, that “*the best interests of the child shall be a primary consideration*”, should be applied in a systematic manner in any action that affects a child and must permeate both, actions of general character, such as assessments, planning or budget allocations, and actions affecting individual children. In situations of internal displacement, this principle requires a careful assessment of the best interests of the child at every phase of the displacement cycle, regarding any action that may affect the child. While relevant for all children, the identification of the best interests of unaccompanied and separated children in situations of internal displacement requires special attention due to the particular risks that they may face.

Best Interest Determination Procedures

National child protection systems usually foresee scrupulous procedural safeguards for decisions of a certain magnitude which require identifying the best interests of the child. Such decisions include separation from parents against their will (e.g. in case of abuse or neglect), determination of custody rights or decisions on adoption. These decisions can only be taken by competent national authorities, such as the judiciary, and are subject to procedural safeguards foreseen by law.

In humanitarian crises, protection actors may also need to establish formal procedures for the determination of the child’s best interests (known as BID procedures). In the context of family unity, BID Procedures are to be established when considering durable solutions, alternative care arrangements, and removal from family when a child’s safety is in question and, in some cases, family reunification. These should be developed building on domestic child protection systems. They should ensure that decisions are taken by more than one person with relevant expertise and are based on a balancing of all relevant factors. BID Procedures should ensure adequate child participation without discrimination. The views of the child should be given due weight in accordance with age and maturity.

4. The responsibility of the State

The family is considered to be a fundamental social unit and is entitled to special protection under international law as well as by most national legal frameworks. The national authorities carry primary responsibility for protecting and ensuring respect for family unity and family life (see section 7 below). This includes taking any necessary legislative, administrative and other measures to prevent and respond to family separation. States should, for example:

- Take action to **prevent** family separation from taking place, including by ensuring that any action or inaction by the State does not result in separation of families who wish to remain together, including during evacuations or other population movement. This may include ensuring proper registration of births, deaths and/or changes in civil status (e.g. marriage or divorce), as well as the equal rights of men and women to manage family property and care for their children.
- Enable the rapid **tracing and reunification** of separated family members, for instance by establishing tracing mechanisms, facilitating inquiries, assisting separated families to reunite, and cooperating with humanitarian organizations engaged in such activities.
- Provide **protection and assistance** to persons that have become separated from their families and families that are caring for such persons, in particular where unaccompanied or separated children are involved. Children who cannot be reunited with their families should be provided with alternative care and support. Care arrangements must be regularly monitored and measures taken to protect the child from any form of violence, maltreatment, neglect or abuse.
- Make all efforts to establish, and inform next of kin of the **fate and whereabouts** of missing relatives. In the event of death the authorities should endeavour to collect and return the mortal remains of dead relatives to their families.

5. The role of human rights and humanitarian actors

Human rights and humanitarian actors can support efforts to preserve family unity by helping to prevent family separation, by providing protection and assistance to those that have been separated from their families, and by supporting family tracing and reunification efforts where appropriate. Such efforts should be coordinated by actors having the required skills, expertise and experience. They should also be in line with existing guidelines on the subject, in particular the Inter-Agency Guiding Principles on Unaccompanied and Separated Children. In most cases, close cooperation with national authorities and relevant line ministries is needed.

5.1 General activities



In our work we can ...

Assessment

(see Part III.1)




- Ensure that protection assessments take into account the risk of family separation, including its main causes, consequences, and those most at risk. Such assessments should also identify the means and mechanism used by the community to prevent or respond to such separation (e.g. community-based tracing, reunification and provision of temporary care and support to those in need).

Coordination

- Ensure that family unity is adequately addressed by the protection working group and other coordination mechanisms if needed. This may require the establishment of a focal point or a working group that takes responsibility for coordinating the response (see section on key actors below).







	<ul style="list-style-type: none"> • Ensure that the roles and responsibilities of all relevant actors are clear, that adequate standard operating procedures are in place and joint referral/response mechanisms established, and that existing common standards and tools are used and implemented, including the Inter-Agency Guiding Principles on Unaccompanied and Separated Children (see the reference list below for key resources).
Referral and response	<ul style="list-style-type: none"> • Ensure that a referral and response mechanism is available and known to staff and partners. Such mechanisms are needed to ensure immediate registration, documentation and appropriate care, protection and assistance, of any identified separated family members, in particular unaccompanied children. Such mechanisms should be coordinated by actors with the required expertise.
Monitoring (see Part IV.1) 	<ul style="list-style-type: none"> • Ensure that all staff and partners, including those involved in protection monitoring, know how to identify separated family members and are familiar with relevant referral/response mechanisms.
Confidentiality	<ul style="list-style-type: none"> • Ensure that actors working with unaccompanied and separated children and other separated individuals respect privacy and confidentiality of information, and that measures are taken to guarantee data protection.


5.2 Preserving family unity

Efforts to preserve family unity should take place during all stages of displacement. Such efforts can prevent family separation from taking place and, in case it occurs, greatly facilitate rapid tracing and reunification.



In our work we can ...	
Advocacy (see Part IV.3) 	<ul style="list-style-type: none"> • Advocate with relevant actors, particularly with local and national authorities, to take appropriate legislative, administrative and other measures to promote and protect the principle of family unity. This may, for instance, include advocating for the recognition of customary marriages to ensure respect for the rights of women to claim custody of their children and to inherit land and property upon the death of their husbands; and for the full and equal rights of children born out of wedlock.
Community mobilization (see Part IV.10) 	<ul style="list-style-type: none"> • Work with relevant actors, including parents, community groups and local and national authorities, to raise awareness of the risks of family separation and take measures that can help prevent separation from taking place, or where such separation occurs, can facilitate tracing and reunification. As an example, children can be taught to remember their name and that of their parents, date of birth, address and other details that could assist with family tracing in the event of separation.
Civil status and documentation (See Part V.2) 	<ul style="list-style-type: none"> • Work with relevant stakeholders, including local and national authorities, to ensure that all births, deaths and changes in civil status (marriage, divorce) are registered and documented, and that IDPs and have access to documentation and/or replacement documentation, if needed.
Access to assistance and services (See Part IV.7) 	<ul style="list-style-type: none"> • Advocate and take other steps to ensure that families with children have access to public and/or relief assistance and services, including shelter, food, non-food items and income-generating activities, to enable them to remain together and prevent families from having to abandon or give their children away. Pay particular attention to single headed households, especially those headed by children, single women, older persons and persons living with a disability.



<p>Programme planning and implementation</p>	<ul style="list-style-type: none"> • Ensure that humanitarian programmes and projects do not cause or result in separation of families, either deliberately or accidentally. As an example: <ul style="list-style-type: none"> – Make sure that family members are accommodated and assisted together wherever possible. Children should not be accommodated separately from their families or other legal or customary primary care-givers. – Avoid transferring unaccompanied or separated children from the location where they were found, unless the best interest of the child so require, as it may make tracing more difficult. – Make arrangements during distribution of assistance to prevent separation of families from taking place. This may, for instance, include organized community child-care.
<p>Preventive measures in case of evacuation or assisted transfer (See Part IV.9)</p> 	<ul style="list-style-type: none"> • Take action to ensure family unity during evacuation or assisted transfer, including during return or relocation. This may, for instance, include ensuring that: <ul style="list-style-type: none"> – Evacuation/transfer, reception and care are planned in advance and form part of a coordinated plan of action. – Families are registered and transferred together. Children should, as a general rule, not be transferred without their parents or other primary care-givers. Where this is not possible, adequate reception and care arrangements must be made in advance and reunification should take place as soon as possible.


5.3 Identification, registration and documentation

It is important to ensure that separated family members, in particular any unaccompanied or separated children, are identified, registered and documented as early as possible. This will increase the likelihood of successful tracing and reunification and facilitate the timely provision of adequate care, support and protection to those in need.

Unaccompanied and separated children should always be registered and documented, even when they are in the safe company or care of an adult, as it is prerequisite for tracing and reunification with the child’s family. At the same time, it is important to ensure that the process does not undermine existing care arrangements or raise false expectations about assistance and support.² The process must thus be explained in advance and should preferably be undertaken by experienced staff or specialized actors.

In order to ensure a consistent approach it is important that relevant actors use existing inter-agency tools, forms and guidelines, which have been developed based on years of experience.



<p>In our work we can ...</p>	
<p>Identification</p>	<ul style="list-style-type: none"> • Ensure that mechanisms are in place to identify separated family members, including in particular any unaccompanied or separated children. Such mechanisms should be coordinated by actors that have the required expertise (see section on key actors below). All staff and partners should however be familiar with signs indicating family separation and available referral/response mechanisms.
<p>Registration and documentation (See Part V.2)</p> 	<ul style="list-style-type: none"> • Ensure that separated family members are registered and documented immediately following identification. Registration may include collection of information such as name, data and place of birth, name of parents and other close relatives, former address, present location, and a photograph. Registration records should be updated as required and kept by or with the separated family member, and a copy shared with actors that oversee family tracing and reunification.

² This can result in a pull-factor, with parents registering their own children as separated in order to access assistance, or a push-factor, with care-takers avoiding registering unaccompanied or separated children in their care out of fear that the children will be taken away. In some cases, caregivers may reject a child in their care if expected assistance or support fails to materialise.

- Where limited time and resources are available for registration, for instance due to security reasons, priority may need to be given to very young children or children with disabilities, who may have difficulty in recalling important information at a later stage. Unaccompanied children may need to be provided with immediate care arrangements.

5.4 Tracing, verification and reunification

Family tracing, verification and reunification should take place as soon as possible, including in times of conflict and displacement.

Tracing can take place by different means, including by:

- Dissemination of Red Cross Messages (delivered by ICRC or Red Cross/Crescent national societies);
- Mass tracing, which involves displaying or disseminating name lists and/or photos;
- Radio broadcasting of limited personal information, such as name, sex, age of the separated person and possibly parents/siblings;
- Photo tracing, which involves dissemination of photos;
- Cross-referencing tracing records with other available records, such as birth or school registers or census databases; and
- Case-by-case tracing, which is mostly used for small case-loads or where other efforts have proved futile.

For confidentiality and security reasons, the current location of the separated person should be kept confidential until the family relationship has been verified and those involved have agreed to be reunited. In some cases, reunification may be neither feasible nor desired, for instance if the separated person suffered neglect or abuse at the hands of other family members prior to separation or if reunification would place the person at risk.

Tracing, verification and reunification is usually coordinated and undertaken by specialized actors, but other humanitarian actors can facilitate and support such efforts.



In our work we can ...

Tracing and verification

- Support and facilitate the work of specialized actors involved in tracing separated family members. Tracing and verification should generally be undertaken by the authorities or by specialized agencies such as ICRC or UNICEF, but other humanitarian actors can support such efforts. This can, for instance, include sharing information when needed, facilitating access and/or transportation, and providing temporary care and support during the process.

Reunification

- Support and facilitate family reunification efforts when possible. This can, for instance, include facilitating transfer or transport of separated family members or providing temporary meeting space, shelter or other assistance for reuniting families.
- Support efforts aimed at establishing or re-establishing family bonds prior to or pending reunification of separated family members. Children and other family members may need to be provided with information about the process and in some cases may require short familiarization visits or periods before formal reunification can take place.



Follow up

- Ensure that relevant records, including those relating to distribution of food and other assistance, are updated in order that the reunited family receives needed assistance and services. Where children have been reunited with their families, additional measures may need to be taken, for instance to ensure that the child is enrolled in and has access to schools and other education or vocational training programmes.
- Support community groups or structures that can provide support and assistance to families with children, including those that have experienced separation before, to facilitate reintegration and minimize the likelihood of separation occurring or recurring.

5.5 Protection and assistance, including alternative care arrangements

While ideal, reunification may not always be possible or feasible, either in the short or the long term. In such cases, it is important to ensure that adequate care, protection and assistance is provided to separated persons, in particular unaccompanied or separated children. This includes ensuring security and physical, social, economic and emotional support, and access to services, such as education and health care.

In the case of children, alternative care arrangements may need to be made. These can take various different forms, including:

- **Community-based care**, which builds on existing social structures, is usually the preferred option. It includes extended family, previous care-givers, or social group/community that is well known to the child.
- **Foster care**, which refers to a situation where children are cared for in a household outside their family. It can take different forms. Such arrangements must be made carefully and in consultation with the child and the community.
- **Institutional care**, such as in an orphanage, is an option of last resort. It often has detrimental effects on children and it can make it more difficult to prevent neglect, abuse and exploitation.
- **Group living**, refers to a situation where children have come together to form household units. It is not desirable, but where such arrangements exist they can be supported, for instance through day-care rather than residential care.

Adoption, which involves the permanent and legal or customary transfer of parental rights and responsibilities to the adopters, should only be considered once it has been established that the child is free to be adopted. In practice, this means that there is no hope for successful tracing and reunification or that the parents have given consent to an adoption. Adoption must be in line with national law and procedures and be subject to close governmental control and scrutiny.³

Alternative care arrangements, whether short or long-term, must always be monitored and periodically reviewed to ensure the welfare of the child. Efforts must also be made to protect children from any form of discrimination, maltreatment, neglect, abuse or exploitation, and ensure their full and equal access to education, health care and other services.



In our work we can ...

Monitoring

- Ensure that adequate monitoring systems are in place to monitor the welfare of children in alternative care arrangements. This can, for instance be done through community child welfare committees or through informal means, for instance with the help of friends, teachers and neighbours. A child in foster care should receive appropriate care and protection on equal basis with other children in the family. ►►

³ For further information see pp. 55-57 of the Inter-Agency Guiding Principles on Unaccompanied and Separated Children.

Assistance

- Advocate to ensure that foster care families receive adequate support and assistance in order to enable them to care for a child. Foster children should be protected from discrimination, neglect, abuse and exploitation and have full and equal access to services, such as education and health care.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org

6. Key international legal principles and standards

International (and regional) human rights law guarantees the right to respect for the family, including the freedom from any unlawful or arbitrary interference. As a fundamental unit of society, the family is also entitled to special protection and assistance.⁴

See Principles 16 and 17 of the Guiding Principles on Internal Displacement (in Annex 1).

Women are entitled to equal rights with men in all matters relating to marriage and family relations, including the same rights and responsibilities regarding their children, whether during marriage or at its dissolution.⁵ Women also have an equal right to own, inherit, acquire and manage property, including family property. The full and free consent of both spouses is required before entering into marriage. The marriage of children is considered unlawful.

Children and their mothers, both before and after childbirth, should be provided with special protection and assistance. In particular, the Convention on the Rights of the Child, which is nearly universally ratified, contains many important provisions, including:

- The best interests of the child must be a primary consideration in all actions concerning children. Their right to life, survival and development, and to non-discrimination and participation must also be respected.⁶
- States must protect the right of children to be cared for by their parents. Children must not be separated from their parents against their will, unless such separation is deemed to be necessary for the best interest of the child and necessary procedural safeguards are complied with. In the event of separation, children must be provided with special protection and assistance, including appropriate care arrangements, taking into account the child's age, maturity and ethnic, religious, cultural and linguistic background. Alternative care arrangements must always be subject to periodic review.⁷
- States must take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect, maltreatment or exploitation. States should also provide necessary support for the child and his or her caregivers and take action to ensure prevention, identification, reporting, referral, investigation, treatment and follow-up in all cases of maltreatment.⁸

International humanitarian law requires that the family rights of protected persons be respected in times of armed conflict. In case of evacuations or other transfer of people, all

⁴ See Art. 16 of UDHR; Art. 10 of ICESCR; Arts. 17 and 23 of ICCPR, Arts. 16 and 18 of CRC and at the regional level, Art. 18 of AfCHPR; Art. 17 of AmCHR; Art. 38 of ArCHR; Art. 5 of the Cairo Declaration on Human Rights in Islam; Arts. 8 and 12 of ECHR; and Art. 16 of the revised ESC.

⁵ See at the international level, Art. 16 of UDHR; Art. 23 of ICCPR; Art. 10(1) of ICESCR; Arts. 5 and 16 of CEDAW, and at the regional level, Art. 18 of AfCHPR and Arts. 6 and 7 of its Protocol on the Rights of Women in Africa; Art. 17 of AmCHR; Art. 5 of Protocol 7 to ECHR.

⁶ These general principles are outlined in Arts. 2, 3, 6 and 12 of CRC.

⁷ See at the international level Arts. 7, 8, 9, 20 and 25 of CRC, and at the regional level, Arts. 19, 20 and 25 of AfCRWC; and Art. 8 of the Covenant on the Rights of the Child in Islam.

⁸ See at the international level, Art. 19 of CRC, and at the regional level, Arts. 16, 27 and 29 of AfCRWC; and Arts. 17 and 18 of the Covenant on the Rights of the Child in Islam.

possible measures must be taken to ensure that the members of the same family are not separated.

In case separation occurs, family members should be able to receive news from each other and be provided with information about the fate and whereabouts of missing relatives. All appropriate steps should also be taken to facilitate the reunion of dispersed families. Separated children should be identified, registered and provided with special protection and assistance at all times.⁹

In the case of internment or confinement, for instance to a camp, members of the same family should be accommodated together, be allowed to correspond with their families and receive visitors, especially close relatives.¹⁰



7. Key Actors

While various core activities, such as family tracing and reunification, should be undertaken by specialized actors, all human rights and humanitarian actors play a role. These include:

- At the **national level**, internally displaced persons and host communities; child-welfare and social support services; ministries of social affairs and education; the media, local NGO's or faith-based organizations.
- At the **international level**, specialized actors include the ICRC and the national Red Cross/Crescent societies; UNICEF, UNHCR, IRC, Save the Children Alliance, and World Vision International. Other actors include OHCHR, OCHA and IOM.



Resources

- *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, ICRC, 2004. à www.refworld.org
- *Separated Children, Action for the Rights of Children*, Save the Children Alliance/UNHCR/UNICEF and OHCHR, 1998
- *Working with Separated Children* (Field Guide and Manual), Save the Children UK, 1998.
- *The Lost Ones – Emergency Care and Family Tracing and Reunification of Children from Birth to Five Years*, UNICEF/IRC, 2003. www.unicef.org/protection/index_armedconflict.html
- General Comment No. 19(1990) of the Human Rights Committee on *the protection of the family, the right to marriage and equality of the spouses* (Art. 23). www.ohchr.org/english/bodies/hrc/comments.htm
- General Comment No. 17(1989) of the Human Rights Committee on the rights of the child. www.ohchr.org/english/bodies/hrc/comments.htm
- *Mobility Mapping and Flow Diagrams: Tools for Family Tracing and Social Reintegration Work with Separated Children*, Brigitte De Lay, International Rescue Committee, 2002
- *UN Guidelines for the Appropriate Use and Conditions of Alternative Care for Children*. Draft, forthcoming 2008. www.crin.org/docs/DRAFT_UN_Guidelines.pdf

⁹ Rules 105, 117 and 131 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005). See also Arts. 25, 26, 27 and 50 of the Fourth Geneva Convention; Art. 74 and 78 of Additional Protocol I; and Art. 4(3)(b) of Additional Protocol II.

¹⁰ See e.g. Rules 125 and 126 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005). See also Art. 82 of the Fourth Geneva Convention and Art. 75(5) of Additional Protocol I.

Access to Justice



Key Message

Access to justice is a basic right as well as a key means of defending other human rights and ensuring accountability for crimes, violence and abuse. Justice plays an important role in combating impunity, ending discrimination and poverty, and paving the way for peace and national reconciliation. Efforts to strengthen the rule of law and ensure full and equal access to justice for all, including internally displaced persons, should form part of the humanitarian response from the outset of an emergency.

1. What is justice?

The exact meaning of the term might differ from one country to another but **ideas of justice** are common to all cultures and generally include notions of fairness, accountability and equity of outcome.

For the purpose of this chapter, **access to justice** can be defined as the ability to obtain an adequate remedy for any harm suffered, whether at the hands of an individual, a group, or another entity. Such remedies can take different forms, ranging from restitution or compensation for the harm done (*restorative or restitutive justice*) to penalties or punishment of those responsible (*retributive or punitive justice*).¹

“[We have] learned that the rule of law is not a luxury and that justice is not a side issue. We have seen people lose faith in a peace process when they do not feel safe from crime. We have seen that without a credible machinery to enforce the law and resolve disputes, people resorted to violence and illegal means. And we have seen that elections held when the rule of law is too fragile seldom lead to lasting democratic governance. We have learned that the rule of law delayed is lasting peace denied...”

Kofi Annan, Secretary General of the United Nations, Access to Justice Practice Note (UNDP, 2004).

Systems of justice, formal and informal, generally have two components:

- A **normative framework** (a *body of law*), which consists of national law (constitutional, federal, provincial and municipal, and often traditional or religious law) together with international and regional law. All States have an obligation to ensure that their national law gives effect to and is in conformity with their international legal obligations, including human rights law.
- An **institutional framework**, which includes both formal (state-run) justice mechanisms, such as courts and tribunals, and quasi-judicial or alternative mechanisms, such as religious courts, tribal councils or grievance committees (*see Annexes 1 and 2 to this chapter*). In some countries, temporary mechanisms are also established to deal with transitional justice (*see Annex 2 to this chapter*). A complementary role can also be played by international or regional bodies, such as the International Criminal Court.

All systems of justice should respect human rights, both in terms of process and outcome. States have a range of human rights obligations which their legislative, judicial and executive branches are bound to respect and protect. International involvement with and support for systems of justice similarly must be guided by human rights standards.

¹ This Action Sheet focuses on rule of law and access to justice and does not address other forms of justice, such as social or distributive justice.

2. Lack of access to justice in the context of internal displacement

The ability to access justice is essential to combat impunity and prevent and respond to protection risks and concerns. Internally displaced persons and other affected populations often however lack or have limited access to justice owing to a number of factors. Armed conflict, generalized violence and collapse of institutions and infrastructure frequently result in a breakdown in the rule of law and access to justice. In some cases, an otherwise functioning justice system may remain out of reach for displaced individuals and communities owing to discrimination, marginalization and poverty.

Having fled their homes and lost their livelihoods as well as the protective presence of their families and communities, internally displaced persons might find themselves at increased risk of violence, exploitation and abuse at the same time as their access to justice and other remedies is curtailed because of displacement.

Table 1: Common obstacles to ensuring full and equal access to justice

Type	Specific Obstacles
Discrimination	<ul style="list-style-type: none"> • Discriminatory social and cultural norms and practices, particularly on grounds of gender, religion, ethnic, religious or linguistic background, or other status, such as displacement, can result in lack of access to and/or discriminatory treatment within the justice system. • Chronic under-representation of women and minority groups in the justice and law-enforcement sectors can contribute to lack of attention to and understanding of protection risks faced by these groups.
Normative obstacles	<ul style="list-style-type: none"> • National laws that do not or inadequately protect human rights. For instance, national laws might fail to recognize a certain right (e.g. protection from rape), define it narrowly (e.g. define rape as not including marital rape), or criminalize the victim of a violation (e.g. define rape as adultery). • Confusing or complicated legal framework because of overlaps or incompatibility between national law and traditional or religious laws. The latter may be unrecorded or not widely known and thus open to manipulation or abuse. • Lack of a clear institutional and procedural framework and/or professional and ethical standards and codes of conduct governing the work of justice institutions.
Institutional/ administrative obstacles	<ul style="list-style-type: none"> • Breakdown of infrastructure and institutions because of conflict, violence and insecurity, and/or lack of human and financial resources, including lack of qualified staff and basic supplies, such as office space, computers, paper, and telecommunication equipment. • Lack of oversight and accountability mechanisms capable of preventing and addressing corruption, patronage, malpractice and abuse in the justice system. • Weak enforcement capacity, including relating to the arrest of offenders and the investigation and prosecution of cases. • Lack of independent appeals procedures for review of judicial and administrative decisions. • Lack of adequate victim and witness protection resulting in exposure to further physical, psychological, economic or other harm.
Political obstacles	<ul style="list-style-type: none"> • Lack of separation of powers and independence of the justice sector. • Politicization or militarization of public institutions, including segregation along ethnic or religious lines, which may become a source of insecurity, intimidation or violence.



Type	Specific Obstacles
Individual obstacles	<ul style="list-style-type: none"> • Lack of affordable and adequate legal aid for disadvantaged individuals and groups, particularly women/girls and minority groups. • Lack of public confidence in the justice system because of actual or perceived bias, corruption, abuse or lack of effectiveness and efficiency. • Lack of public information and understanding about rights, institutions and procedures for accessing justice. • Lack of legal, financial and social resources and support, making it difficult for displaced individuals, particularly women, to pay for legal aid or transportation to attend court hearings. Lack of education and/or literacy skills can also limit access to justice. • Fear of reprisals, social stigma or ostracism often prevents individuals, especially women, from seeking justice, particularly in cases involving GBV.

Victims and witnesses and their families and wider communities can be exposed to serious risks as a result of their efforts to seek justice. This includes acts or threats of physical violence, destruction of property, harassment, intimidation, and/or social exclusion at the hands of the perpetrators, the authorities and/or the community itself. Internally displaced persons and other disadvantaged individuals or groups, including minority groups, are often particularly vulnerable to such threats.

In addition, men and women who speak out and seek justice for acts of gender-based violence, such as sexual violence, often face further violence, punishment or ostracism. Survivors of rape are sometimes forced to marry their rapists or are arrested, detained and sentenced to imprisonment or other forms of punishment, including in some cases to death.

Note! Seeking justice is not without risks. Always ensure that the victim/survivor is aware of the **risks involved**, **respect confidentiality** and seek **informed consent** before taking action or disclosing personal information. The safety and best interests of the victim must be a primary consideration at all times.

3. The role and responsibility of the State

The State has primary responsibility for maintaining law and order and ensuring full and equal access to justice for everyone within its jurisdiction. This includes ensuring that all institutions and agents of the State, including the courts, the police, prosecutors and prison authorities, respect and protect human rights. To that effect, States are required to:

- Take all appropriate legislative, administrative and other action to **prevent** violations of rights.
- **Investigate** violations effectively, promptly, thoroughly and impartially.
- **Prosecute** or take other action against those allegedly responsible.
- Provide the victims with full, equal, effective and safe **access to justice**.
- Ensure that **remedies are provided and enforced** by institutions of the State.

4. The role of human rights and humanitarian actors: the protection response

Efforts to improve access to and administration of justice should take place within a broader framework aimed at strengthening the rule of law in the country concerned. It is important that such efforts take into account and support the primary role of the State and that they are coordinated with all relevant actors, including human rights, humanitarian and developmental actors. The need for immediate results must also be balanced with longer-term structural and system-wide improvements. The table below lists some activities that could prove helpful in this regard.



In our work we can ...

See also Annexes 1–2 to this chapter for more detailed guidance on working with institutions of justice.

General

Assessment and analysis

(See Part III.1)



- Ensure that protection assessments include matters relating to the rule of law and access to justice, including whether IDPs and affected individuals can access justice and obtain remedies for any harm suffered; the main obstacles they face in this regard and activities that can be undertaken to improve their capacity to access the justice system; and the capacity of the justice sector and other relevant institutions, such as the police, prosecutors, and the prison system.

Coordination

- Ensure that matters relating to rule of law and access to justice are addressed by the protection working group and are closely coordinated with all relevant actors, particularly with national authorities and international human rights and development actors and, as appropriate, peacekeeping forces.

Legislative reform

Legal reform

- Review national laws, policies and practices to assess to what extent human rights are adequately protected. As appropriate, advocate with relevant authorities and offer assistance to revise or adopt new laws, policies or practices.
- Where key human rights instruments have not been ratified by the State or where their adoption has been accompanied by reservations, advocate for the adoption and implementation of these instruments or the lifting of reservations.
- Engage with alternative justice mechanisms, such as religious or traditional dispute-resolution bodies, and seek ways to ensure that these respect human rights, particularly the rights of women and children.

Public information and outreach

Information and communication activities

(See Part IV.6)



- **Support public information and outreach programmes** aimed at ensuring that IDPs and other affected individuals **are aware of their rights**. These should include information about human rights and humanitarian principles in general; the rights of IDPs and other affected individuals; the responsibility of the State and its institutions to respect such rights; and avenues available for redress, whether through the formal or the informal justice system. Activities can include public awareness and educational programmes, including information campaigns, workshops, trainings, and integrating human rights in school curricula.

Mainstreaming of rule of law and access to justice

- Advocate with relevant actors to ensure that rule of law and access to justice are included in peace negotiations and agreements, in relocation and integration frameworks and agreements, and in development plans and programmes.

Supporting and strengthening the capacity of persons of concern to access justice

Legal assistance and advice

(See Part IV.5)



- Ensure that legal aid is available, affordable and adequate, and provided in an appropriate language. This can, for instance, be done by supporting the establishment of legal clinics and information centres, including mobile clinics, and/or by supporting and training networks of lawyers or paralegals that provide free legal advice and assistance.

Material or financial assistance

- Provide modest material or financial assistance to disadvantaged individuals in order to enhance their access to justice. This could include modest financial grants to pay for legal fees, interpretation, or travel costs to and from court.



Safety and security (See Part V.3) 	<ul style="list-style-type: none"> Take steps to ensure the safety and security of victims/survivors and witnesses seeking justice. This may include supporting the authorities or civil society groups to develop victim/witness-protection programmes, advocating with relevant authorities to guarantee their safety, accompanying them to and from court, observing court proceedings, and, in exceptional circumstances, assisting them in relocating to a place where their safety can be guaranteed.
Rights of the accused	<ul style="list-style-type: none"> Take steps, for instance through advocacy, to ensure that the rights of those arrested or detained on criminal or other charges are respected. These include the rights not to be ill treated, to be informed of the charges, to be brought promptly before a judge and to have a fair trial (<i>see legal section</i>).
Reforming and building the capacity of the justice sector and other institutions	
Institutional reform	<ul style="list-style-type: none"> Advocate and support, as appropriate, reform of institutions of justice as well as other relevant institutions, including the police, prosecutors and prison authorities (<i>see Annexes 1-3 to this chapter</i>). Advocate and support the establishment and, where these already exist, the effective functioning of an independent national human rights institution.
Technical advice and expertise (See Part IV.4) 	<ul style="list-style-type: none"> Provide technical advice and expertise to build the capacity of the justice sector in the field of human rights and international humanitarian law, including as it relates to displacement. This can, for instance, be done by providing advice or legal briefs, holding trainings, workshops and seminars, and exchanging or loaning staff on a temporary basis (<i>see Annexes 1-3 to this chapter</i>). Consider providing such human rights capacity-building support to other related institutions as well, particularly the police and prison authorities and traditional justice mechanisms, civil society organizations and communities (<i>see Annexes 1-3 to this chapter</i>).
Material or financial assistance (See Part IV.7) 	<ul style="list-style-type: none"> Consider providing modest material or financial assistance to formal and informal justice institutions, or to police, prosecutors, or prison authorities, if appropriate, to facilitate and strengthen their work. This can, for instance, include the establishment of mobile courts, office space, office or communication equipment, computers, vehicles or fuel. Such assistance should be temporary, be governed by a formal agreement, and subject to continuous monitoring and evaluation.
Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org	



5. Key Actors

Enhancing the rule of law and access to justice requires concerted efforts by a range of actors including:

- At the **national level**, the Courts at all levels; police, prosecutors and prison authorities; Ministries of Justice, the Interior, and Education; Parliament; bar associations and networks of lawyers and paralegals; national human rights institutions; university law departments; NGOs and civil society groups; traditional, customary or religious councils and associations; the media; IDP communities and affected populations; and the public.
- At the **regional level**, courts and commissions, such as the African Court and the African Commission on Human and Peoples' Rights; the Inter-American Court and Commission on Human Rights; and the European Court of Human Rights.
- At the **international level**, UNDP; OHCHR; DPKO and peacekeeping forces on the ground; UNHCR; UNICEF; UNODC; UN human rights treaty bodies and special procedures of the Human Rights Council, including the Special Rapporteur on Independence of Judges and Lawyers; and NGOs.

6. The legal framework

International (and regional) human rights law contains several guarantees that are of particular importance to ensuring full and equal access to justice, including:

- The **right to an effective remedy**² calls for full, equal and effective access to justice and adequate reparation for violations of human rights. The right to a remedy extends not only to the direct victim, but may also extend to the immediate family or dependents and persons who suffered harm in intervening to assist victims. Reparations should be just and proportional to the gravity of the violation and can involve, for instance, restitution (restoration to the previous situation), compensation (e.g. for physical or emotional suffering or economic loss), rehabilitation (e.g. medical care), satisfaction and guarantees of non-repetition.
- The right to **equal recognition of and equality before the law**³ requires that everyone, including internally displaced persons, has access to and is accorded fair and non-discriminatory treatment before courts and tribunals. In many cases, fulfilling this right will require the State to take affirmative action to ensure that internally displaced persons are able to access formal or informal justice mechanisms according to specific needs.

Human rights law also protect the rights of those that are arrested or detained: the **right to liberty and security** prohibits arbitrary arrest and detention and provides minimum guarantees to those detained; and **the right to humane treatment** while in detention. The **right to a fair trial** establishes the minimum substantive and procedural principles (*due process*) applicable in criminal cases⁴.

The right to a fair trial: An overview

- Equal treatment before courts and tribunals
- Fair and public hearing by a competent, independent and impartial tribunal established by law
- Be presumed innocent until proved guilty
- Be informed promptly and in detail, in a language one understands, of the nature of charges
- Have adequate time and facilities to prepare a defense and to consult with counsel of choice
- Be tried without undue delay and in person
- Defend oneself in person or through legal counsel of choice; with legal counsel being offered without charge if necessary or the interests of justice so require
- Examine or have examined witnesses on the same conditions as the adverse party
- Not be compelled to testify against oneself or to confess guilt
- Not be convicted for any act that did not constitute a criminal offence at the time it took place
- Not be convicted for any offence for which one has already been convicted or acquitted
- Have a conviction reviewed by an independent appeal court
- Benefit from any subsequent decrease in punishment and be compensated for any miscarriage of justice

² The right to an effective remedy is implicit in the obligation to respect, protect and fulfill human rights, and is recognized as a general principle of international law. It is also specifically guaranteed in various provisions, including, at the international level, in Art. 8 of UDHR; Arts. 2(3), 9(5) and 14(6) of ICCPR; Art. 6 of CERD; Arts. 12, 13 and 14 of CAT; Art. 39 of CRC; and Principle 7(3)(f) of the Guiding Principles on Internal Displacement. See also, at the regional level, Arts. 7 and 21(2) of AfCHPR and Arts. 8 and 25 of its Protocol on the Rights of Women in Africa; Arts. 10, 15, 27, 63 and 68 of AmCHR; Art. 4(g) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women; Art. 9 of the Inter-American Convention to Prevent and Punish Torture; Arts. 9 and 16 of ArCHR; Art. 19 of the Cairo Declaration; and Arts. 5(5), 13 and 41 of ECHR.

³ At the international level, Art. 6 and 7 of UDHR; Art. 16 and 26 of ICCPR; Art. 5 of CERD; Art. 15 of CEDAW; and Principle 20 of the Guiding Principles on Internal Displacement. At the regional level, Arts. 3 and 5 of AfCHPR and Arts. 3(1) and 8 of its Protocol on the Rights of Women in Africa; Art. 17 of AmDHR; and Art. 3 of AmCHR. For further information see also General Comment No. 32 of the Human Rights Committee on Article 14(2007): Right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32).

⁴ Based on Arts. 10 and 11 of UDHR; Arts. 9 and 14 of ICCPR; Art. 5(a) of ICERD; Art. 15 of CEDAW; and Art. 40 of CRC. See also, at the regional level, Art. 7 and 26 of AfCHPR; Art. 17 and 30 of AfCRWC; Art. 8 AmCHR; Art. 7 of ArCHR; Arts. 6 and 7 of ECHR and Arts. 2, 3 and 4 of Protocol 7. For further information see also General Comment No. 32(2007) of the Human Rights Committee on Article 14: Right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32).

Children that come into contact with justice system are entitled to special treatment that takes into account their age, wellbeing and need for special protection. This applies both to children that are victims/survivors of crimes as well as children that come into conflict with the law. Juvenile justice, which is aimed at reconciliation rather than retribution, promotes the use of community solutions, rather judicial proceedings, and alternatives to custodial sentencing, such as counseling, probation and community service.⁵

7. International humanitarian law

In general, States are considered responsible for all violations of international humanitarian law committed by agents of State, including its armed forces and other entities that exercise governmental authority or act under instructions from the State or under its direction or control. States are expected to make full reparation for the loss or injury caused.⁶

Serious violations of the law, including war crimes, crimes against humanity and/or genocide, can also give rise to individual criminal responsibility, and all States are obliged to investigate and, if appropriate, punish those responsible for such crimes. This includes both the individuals who committed the crime and commanders and other superiors who either ordered or knew, or had reason to know, that their subordinates were about to commit or were committing such crimes and did not take all necessary and reasonable measures in their power to prevent such crimes, or punish the persons responsible.⁷

Basic rules, principles and/or guidelines relating to access to justice

Available at www.ohchr.org/english/law/index.htm

- Basic Principles and Guidelines on the **Right to a Remedy and Reparation** for Victims of Gross Violations of International Human Rights Law and Serious Violations of IHL
- Principles for the Protection and Promotion of Human Rights through **Action to Combat Impunity**
- Declaration of Basic Principles of **Justice for Victims of Crime and Abuse of Power**
- UN Principles relating to the **Status of National Institutions** (*Paris Principles*)
- Basic Principles on the **Independence of the Judiciary**
- Basic Principles on the **Role of Lawyers**
- Guidelines on the **Role of Prosecutors**
- Principles on the Effective Prevention and Investigation of **Extra-legal, Arbitrary and Summary Executions**
- Code of Conduct for **Law Enforcement Officials**
- Basic Principles on the **Use of Force and Firearms** by Law Enforcement Officials
- Body of Principles for the Protection of All Persons under Any form of **Detention or Imprisonment**. Basic Principles for the Treatment of Prisoners
- United Nations Minimum Rules for **Non-custodial Measures** (the Tokyo Rules)
- United Nations Rules for the **Protection of Juveniles** Deprived of their Liberty
- UN Standard Minimum Rules for the Administration of **Juvenile Justice** (the Beijing Rules)
- United Nations Guidelines for the Prevention of **Juvenile Delinquency** (the Riyadh Guidelines)
- ECOSOC Guidelines on Justice in Matters involving **Child Victims and Witnesses of Crime**
- ECOSOC Guidelines for Action on **Children in the Criminal Justice System**

⁵ See, in particular, Arts. 37 and 40 of CRC, and, at the regional level, Art. 17 of ACRWC. See also the United Nations Rules for the Protection of Juveniles Deprived of their Liberty; the United Nations Guidelines for the Prevention of Juvenile Delinquency (*Riyadh Guidelines*); the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (*Beijing Rules*); Guidelines on Justice in Matters involving Child Victims and Witnesses of Crime (ECOSOC Res. 2005/20 of 22 July 2005); and Guidelines for Action on Children in the Criminal Justice System (ECOSOC Res. 1997/30 of 21 July 1997).

⁶ See e.g. Rules 149 & 150 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005).

⁷ See e.g. Rules 151-155 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005).

International humanitarian law also prohibits the conviction or sentencing of persons except following a fair trial affording all essential judicial guarantees.⁸ This includes a right to a trial by an independent, impartial and regularly constituted court; presumption of innocence; information on the nature and cause of the accusation; and necessary means of defense, including access to legal assistance and interpretation, if required. Depriving a person of his/her right to a fair trial constitutes a grave breach of the Geneva Conventions and can amount to a war crime.⁹



Resources

- *Access to All: A Practitioner's Guide to a Human Rights-based Approach to Justice*, UNDP, 2005. www.undp.org/governance/docs/Justice_Guides_Programming_ForJustice-AccessForAll.pdf
- *Access to Justice: Practice Note*, UNDP, 2004. www.undp.org/governance/docs/Justice_PN_English.pdf
- General Comment No. 32(2007) of the Human Rights Committee on Article 14: Right to equality before courts and tribunals and to a fair trial (CCPR/C/GC/32). www.ohchr.org/english/bodies/hrc/comments.htm
- *The Administration of Justice in Refugee Camps: A Study of Practice*, Rosa da Costa, UNHCR, 2006. www.refworld.org
- *Guide to International Human Rights Mechanisms for Internally Displaced Persons and Their Advocates*, Brookings-Bern Project on Internal Displacement, 2006. www.ohchr.org
- *Human Rights in the Administration of Justice: A Manual on Human Rights for Judges, Prosecutors and Lawyers*, OHCHR/International Bar Association, 2003. www.ohchr.org
- *Rule-of-Law Tools for Post-Conflict States*, OHCHR, 2006 (on prosecution, truth commissions, monitoring of legal systems, and vetting). www.ohchr.org
- *Juvenile Justice: Modern Concepts of Working with Children in Conflict with the Law*, Save the Children, 2006. www.savethechildren.org.uk



Useful websites

- United Nations Development Programme (UNDP): www.undp.org
- International Centre for Transitional Justice (ICTJ): www.ictj.org
- International Criminal Court (ICC): www.icc-cpi.int
- International Criminal Tribunal for Rwanda (ICTR): <http://69.94.11.53>
- International Criminal Tribunal for the former Yugoslavia (ICTY): www.un.org/icty
- Reports of the Special Rapporteur on the Independence of Judges and Lawyers: www.ohchr.org/english/issues/judiciary/index.htm

⁸ See e.g. Rules 100-102 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005). See also Common Art. 3 to the Geneva Conventions; Arts. 5 and 66-75 of the Fourth Geneva Convention; Art. 75 of Additional Protocol I; and Art. 6(2) of Additional Protocol II.

⁹ See e.g. Art. 147 of the Fourth Geneva Convention; Art. 85(4)(e) of Additional Protocol I; Art. 8(2)(a)(vi) and (c)(iv) of the Statute of the International Criminal Court.

Annex 1: Practical Guide to Strengthen Formal (State-run) Justice and Law Enforcement Institutions

Institution	Description	Common challenges	In our work we can ...
<p>All</p>	<p>The term “formal justice mechanisms” includes not only the judiciary but also the police, prosecutors, and prison authorities. Like all other institutions of the State, they are obliged to respect human rights and professional and ethical standards applicable to their work, including principles of fairness, transparency, impartiality and accountability. In practice, particularly in situations of conflict and forced displacement, such institutions might face various challenges resulting in partial or complete breakdown of access to justice. In some cases, such institutions can also become a source of discrimination, violence and abuse of IDPs and other affected populations.</p>	<ul style="list-style-type: none"> ● General breakdown of the legal, institutional and social order, resulting in disruption, closure or destruction of institutions and infrastructure ● Inadequate or outdated legislation, rules and procedures that fail to respect human rights and professional/ethical standards ● Lack of transparency, accountability and adequate oversight mechanisms ● Lack of resources and capacities, including qualified staff, adequate infrastructure and necessary equipment ● Widespread culture of discrimination, corruption, extortion, violence and abuse ● Lack of public confidence and public access to information ● Under-representation of women and minority groups 	<ul style="list-style-type: none"> ● Provide or support training on human rights law and professional/ethical standards for relevant stakeholders ● Provide short-term material support, such as office space, furniture, stationary, additional staffing support, or vehicles (for mobile courts) ● Provide technical advice and expertise where needed ● Advocate for the establishment or strengthening of institutional accountability and oversight mechanisms ● Advocate for revision of laws, regulations and procedures so these are in conformity with human rights and professional/ethical standards ● Encourage and support the strengthening of the role of women and other disadvantaged groups. ● Advocate that issues relating to the rule of law and access to justice are included in peace negotiations, settlements and development plans.
<p>Judiciary <i>(includes the courts and quasi-judicial bodies, such as tribunals and commissions)</i></p>	<p>A competent, independent and impartial judiciary is the cornerstone of a functional justice system. It ensures the rights and freedoms of individuals and functions as a mechanism of checks and balances for other branches of government. The UN Basic Principles on the Independence of the Judiciary summarize many of its basic principles, including that hearings must be conducted fairly and in public; due process rights must be respected; and matters are decided impartially, on the basis of facts and in accordance with the law, without any restrictions, improper influences, threats or interferences, whether direct or indirect.</p>	<ul style="list-style-type: none"> ● Lack of resources and capacities, including qualified staff, adequate infrastructure, legal materials and office equipment ● Undue delays owing to ineffective administration and excessive case loads ● Unaffordable litigation costs ● Insecurity and violence, including lack of victim and witness protection, <i>en route</i> to and on court premises ● Undue influence or interference by other branches of government, undermining the independence of the judiciary ● Lack of legal aid and representation ● Lack of adequate mechanisms to follow and ensure that judicial decisions are respected and enforced 	<ul style="list-style-type: none"> ● Provide material support, such as legal materials/publications and/or office equipment ● Encourage and support the establishment of mobile courts and provide temporary material/technical support ● Encourage the use of informal dispute resolution systems or small claims tribunals, provided these meet and respect human rights standards ● Advocate for improved security measures, in particular for victims and witnesses as well as for judicial staff ● Encourage legal and administrative reform, including transparency, accountability and security of tenure for judges, recruitment of female judges, and streamlining of rules and procedures. ● Advocate for and support legal aid programmes

Institution	Description	Common challenges	In our work we can ...
<p>Police</p> <p>The police play an essential role in ensuring access to justice. In addition to maintaining law and order, the police are usually the first point of contact in the judicial system, and take responsibility for enforcing judicial decisions. The police hold broad discretionary powers that, if misused, can result in grave human rights violations. The UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials govern the conduct of the police, including the use of force and firearms, respect for confidentiality, and treatment of detainees.</p>	<ul style="list-style-type: none"> ● Lack of resources and capacities, including delays in salary payments, lack of qualified staff and weak forensic and investigative abilities ● Targeted attacks of police staff by parties to hostilities ● Widespread culture of violence and abuse of discretionary powers, including unnecessary and excessive use of force, arbitrary arrest and detention ● Discrimination, harassment, extortion and exploitation of individuals and groups, particularly women and those of certain ethnic, religious or indigenous origin ● Lack of resources or expertise to prevent and respond to certain types of violence, including sexual and gender-based violence and domestic violence, as well as violence committed against certain groups, such as women, children, the elderly, and ethnic or religious minorities 	<ul style="list-style-type: none"> ● Provide or support training in human rights, including the rights of IDPs and professional/ethical standards ● Assist authorities with developing and implementing crime-prevention and response strategies ● Improve community-police relations, including through community policing or joint patrols ● Advocate for the establishment of appropriate accountability and oversight mechanisms that can monitor and restrict the abuse of police powers ● Advocate for the strengthening of the police's conditions of service, facilities and infrastructure ● Encourage the establishment of units and trained staff dealing specifically with sexual and gender-based crimes and with child protection issues ● Advocate for increased numbers of female police officers 	<ul style="list-style-type: none"> ● Provide or support training in case management, evidence-gathering and investigation ● Provide material and technical support to assist prosecutors in building and pursuing cases involving major human rights violations ● Advocate for the establishment of adequate criminal procedural codes and codes of conduct for prosecutors
<p>Prosecutors</p> <p>Prosecutors play a crucial role in the criminal justice system and often hold quasi-judicial powers. They decide which criminal cases to pursue, prosecute offenders, often supervise the police in investigating and gathering evidence, and might be entrusted with enforcing court judgments. The UN Guidelines on the Role of Prosecutors establishes minimum standards for prosecutors, including that they perform their duties fairly, consistently and expeditiously, and respect and protect human dignity and uphold human rights.</p>	<ul style="list-style-type: none"> ● Lack of resources and capacities, including qualified staff and weak investigation capabilities ● Imprecise criminal procedural codes and codes of conduct for prosecutors ● Blurring of the boundaries between judicial and prosecutorial functions, especially in rural areas where prosecutors may be called upon to act as judges and arbiters ● Lack of safety and security for prosecutors and their families 	<ul style="list-style-type: none"> ● Provide or support training in case management, evidence-gathering and investigation ● Provide material and technical support to assist prosecutors in building and pursuing cases involving major human rights violations ● Advocate for the establishment of adequate criminal procedural codes and codes of conduct for prosecutors 	<ul style="list-style-type: none"> ● Provide or support training in case management, evidence-gathering and investigation ● Provide material and technical support to assist prosecutors in building and pursuing cases involving major human rights violations ● Advocate for the establishment of adequate criminal procedural codes and codes of conduct for prosecutors



Institution	Description	Common challenges	In our work we can ...
<p>Prisons</p>	<p>Prisons should be included in wider justice reform programmes, and detention and imprisonment should always be subject to strict rules. The rights of prisoners must be respected and they treated in a humane and dignified manner. Pre-trial detention should be kept to a minimum and imprisonment non-custodial alternatives have been exhausted or deemed inappropriate (for instance, because of the seriousness of the crime). These and other rules are stipulated in: UN Basic Principles for the Treatment of Prisoners; UN Standard Minimum Rules for the Treatment of Prisoners; and UN Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.</p>	<ul style="list-style-type: none"> ● Sub-standard living conditions, including overcrowding and lack of adequate shelter, sanitation, clothing, food and water, and a failure to provide needed services, such as health care ● Violence and abuse of prisoners and detainees at the hands of other prisoners or prison officials ● Failure to respect basic principles and standards for the treatment of prisoners, including relating to segregation of prisoners by sex, age, and criminal conviction ● Arbitrary, prolonged and excessive pre-trial detention because of delays in other parts of the justice system ● Emphasis on confinement and punishment rather than rehabilitation and eventual reintegration into society ● Outdated or abusive prison and penal legislation, rules and procedures 	<ul style="list-style-type: none"> ● Ensure regular monitoring of prison conditions and compliance with basic principles/standards. As appropriate, advocate for improvements ● Advocate for the establishment of internal and external oversight and investigation mechanisms to ensure that incidents of violence and abuse are reported, investigated and punished ● Encourage the use of non-custodial measures or alternative forms of detention aimed at facilitating rehabilitation and social re-integration of offenders ● Advocate for review and revision of prison and penal legislation, rules and procedures, and offer technical assistance to do so, if and when needed ● Advocate for greater number of female prison officials, including guards, managers, monitors and evaluators <p>Note! These activities should be undertaken in consultation with the ICRC and OHCHR where present</p>

Annex 2: Alternative dispute resolution mechanisms

A range of traditional, customary or religious dispute resolution systems (**DRS**) operate in most societies, particularly in the developing world, where up to 80% of disputes might be handled by religious courts, tribal councils, groups of elders, grievance committees or community leaders. Such mechanisms can play an invaluable role in ensuring access to justice. Their **main advantage** lies in the fact that they might be more accessible and acceptable from a cultural or religious perspective, consume less time and resources, focus on restitution and compensation rather than punishment, and use methods, such as mediation, negotiation and arbitration, that can foster social cohesion and reconciliation.

DRS should not be seen as a substitute for formal justice institutions, but rather as **a complementary system** aimed at improving access to justice. DRS are particularly well suited to resolve minor conflicts and disputes between people living in the same community, where reconciliation and restoration, rather than retribution and punishment, are needed. Formal justice, on the other hand, is best equipped to provide the legal and procedural guarantees needed in cases involving serious crimes, including torture, rape or murder, or serious penalties, such as long-term imprisonment.

Any involvement with DRS **must, however, be guided by human rights standards**. In general, such mechanisms should only be supported where they are consistent with the rule of law and respect the human rights of all groups in society. The use of DRS can raise **a number of concerns**. They frequently reflect and reinforce prevailing power relationships that perpetuate discrimination based on gender, caste, religion or ethnicity. In particular, women and girls are routinely excluded from such bodies or, where admitted, often lack real authority and decision-making power. In some cases, particularly in internal displacement contexts when community structures have been disrupted, DRS might be relatively new or neo-traditional institutions that lack cultural and moral legitimacy, despite claims to the contrary. Other concerns include:

- Limited respect for basic human rights, including the principle of non-discrimination and recognized standards of fair trial and due process. In particular, DRS might fail to address and provide redress for violations that predominantly affect women and girls, such as rape, domestic violence and women's property or inheritance rights.
- Use of customary or religious rules that criminalize acts that **do not** constitute a violation of national law (e.g., sorcery, rape defined as adultery) or fail to criminalize and punish acts that **do** violate national law (e.g., rape and sexual violence, harmful traditional practices, female genital mutilation, and forced and early marriage).
- Use of remedies and/or punishments that are disproportionate to the offence or fail to respect the rights or best interests of the victim. Compensation might be provided to the family or clan rather than the individual victim(s) or be provided at the expense of the victim (e.g., by forcing the victim to marry the rapist to restore family honour). Similar concerns might apply to punishment, which may be excessive (e.g., capital punishment for adultery); overly lenient (small fines for capital crimes, such as murder or child rape); amount to torture or ill-treatment (e.g., chopping of limbs); be unfair (e.g., confiscation of a family's food ration cards); or violate the rights of a third party (e.g., by offering a daughter or sister of the accused for marriage).
- Sub-standard detention and/or prison facilities and conditions and ill treatment of detainees, including lack of food, shelter, clothing and access to medical care.
- Other concerns include: lack of confidentiality, transparency and accountability; lack of legal aid and representation; inadequate record-keeping; failure to provide reasons for decisions; and lack of appeal procedures.

Provided that our involvement with DRS is guided by human rights standards, **a number of activities can be undertaken** to build the capacity of DRS to play a positive protection role. These include:

- Raising awareness of and provide training in human rights and relevant standards of fair trial, due process and punishment, and minimum standards of detention and imprisonment.

- Supporting efforts aimed at reconciling and strengthening the link between traditional and religious norms and practices and human rights standards, for instance through research and constructive dialogue with and within the community.
- Working with the community to ensure that DRS are truly representative and non-discriminatory towards women and minority groups, including by ensuring that they address violations faced by such groups and respect their rights.
- Providing DRS with technical or material support, such as providing meeting space, office equipment, and/or modest incentives or compensation for their work.
- Advocating for a closer link between DRS and formal justice mechanisms to ensure adequate support, supervision and oversight.

Annex 3: Transitional Justice

In many conflict and post-conflict societies, coming to terms with the legacy of large-scale human rights abuses and atrocities is a major challenge. Confronting the past, providing justice to victims and bringing perpetrators to account is an integral element of peace-building, reconciliation and restoration of the rule of law. It is also an important part of beginning the long-term process of healing among individuals, families and communities.

Peace and justice should be seen as mutually reinforcing imperatives, rather than mutually exclusive aims. Failing to address questions of justice can reinforce a culture of impunity, cause further injustice to victims and survivors, and might, in some cases, undermine rather than strengthen post-conflict reconciliation and peace-building in the longer term.

There are several ways to address past abuses in post-conflict societies, often through a form of transitional justice. The term **transitional justice** refers to temporary judicial and non-judicial mechanisms or processes that communities adopt to come to terms with a legacy of past abuses during conflict or authoritarian rule. It generally involves a combination of complementary judicial and non-judicial strategies that might differ from one society to another. These include:

- **Prosecution of alleged perpetrators** before national courts, hybrid tribunals (such as the Special Court for Sierra Leone) or international courts (such as the International Criminal Court).
- **Truth commissions**¹⁰ or other truth-seeking initiatives, including recording of survivor testimony, exhumation of victims' remains, and historical research.
- **Reparation packages** for survivors providing restitution, compensation, and rehabilitation, actual or symbolic, as appropriate for abuses suffered.
- **Commemoration** of victims and survivors through ceremonies or the construction of memorials or museums, often through conversion of sites of former abuse, such as prisons or detention camps.
- **Reconciliation initiatives**, including healing ceremonies for victims and individual acts of acknowledgment, apology, symbolic payment or community service by perpetrators.
- **Institutional reform** aimed at building fair, effective and transparent public institutions to safeguard against further abuse. Such efforts often include **vetting**, i.e. the screening and dismissal of abusive, corrupt or incompetent officials from public institutions, including the judiciary, the police, military and other security services.

The choice of transitional justice mechanisms depends on the context as well as on the type, nature and scale of the abuses committed. In many cases, prosecution of offenders might not be the appropriate solution; on the contrary, it might run counter to the interests and will of both the victims and society at large. However, efforts should be made to ensure that the most serious crimes, including rape, torture and murder, do not go unpunished.

Transitional justice mechanisms have often been negotiated, developed and implemented with little regard for the important contribution of, and the harm suffered by, **women and girls**. Rape, gang rape, forced prostitution, forced pregnancy and some other forms of sexual violence may constitute torture, genocide, mutilation, and enslavement, under international law. Such acts, however, have in general not been treated with the same seriousness as other war crimes. Neglect of patterns of gender-based abuse has entrenched impunity, limited the reach of reparations programmes, and undermined the legitimacy of transitional justice initiatives.

Strategies to strengthen transitional justice mechanisms include:

- Ensuring that questions of transitional justice, including for women and girls, are addressed in peace negotiations and settlements;
- Establishing or supporting the work of courts, tribunals, truth commissions and other justice mechanisms through financial, material or technical assistance; and
- Providing support to grassroots peace-building and reconciliation efforts.

¹⁰ Truth commissions have been established in Ecuador, Ghana, Guatemala, Nigeria, Panama, Peru, Sierra Leone and South Africa.

Land and Property



Key message

Forced displacement often leads to the loss of land, homes and other property with serious consequences for individuals and communities, who as a result are deprived of their main source of physical and economic security. Disputes over land and other property are frequently among the root causes of conflict and displacement and can pose obstacles to return, reintegration and reconciliation. It is important that efforts to address deprivation of land and property form part of the protection response during all stages of displacement.

The **UN Principles on Housing and Property Restitution for Refugees and Displaced Persons** (*Pinheiro Principles*), together with the **Handbook on Implementing the Pinheiro Principles**, provide important and practical guidance to all those working on housing and property restitution issues. They are available online at www.refworld.org.

1. Loss of property in situations of internal displacement

Forced displacement can be a cause as well as a consequence of deprivation of land, homes and other property. People are often forced to leave behind valuable land and other property when they flee and seek safety from the effects of armed conflict, human rights abuses and other events. In many cases such property is subsequently damaged or destroyed by fighting or appropriated by parties to a conflict or other persons, who themselves may be displaced.

Deprivation of property can also form part of a deliberate political or military strategy, in effect a weapon of war, aimed at terrorizing, punishing and displacing particular communities and altering the ethnic or religious character of a country, in whole or in part. Disputes over land and property also are frequently among the root causes of conflict and displacement in many countries and as a result are often highly complex and difficult to solve.

Property can also be lost during forced return or relocation and other forced population movement while in displacement. Such events, which effectively amount to secondary displacement, often take place as part of or under the cover of land reform, agricultural restructuring or urban planning.

Loss of land and property can have serious consequences for the lives, health and well-being of individuals and communities and expose them to various risks. Without access to land, homes and property people are often deprived of their main source of physical and socio-economic security, including shelter, water, and food as well as the ability to earn a sustainable livelihood.

What do we mean by the term property?

The term property is considered to refer to both tangible and intangible property, including land, homes, money, crops and livestock. Rights to property are not limited to private ownership but include a range of formal and/or informal rights and entitlements relating to access to, use of, control over and/or transfer of property.

Property rights can stem from diverse sources, including not only national law, but also customary or religious law or practice, and local tradition or custom. They can also be acquired over time through consistent use and practice. Such rights can be held privately, for instance by an individual, or collectively, for instance by a family, a social group, or a community.

Lack of a home or a fixed residence can also restrict people's access to assistance and services, including education and health care, and limit their access to credit. As a result, displaced persons may suffer increased poverty, marginalization and risk of harassment, exploitation and abuse.

Women and children often suffer disproportionately from loss of land, homes and property. Discriminatory laws and practices frequently prevent women and girls from owning, leasing, renting and/or inheriting property. In case of divorce or the death of husbands, fathers or other male relatives, women and girls may be forced to leave their homes, coerced into marriage, or subjected to other harmful practices.

During displacement, which often results in the separation of families and a surge in the number of women-headed households, such discrimination might make it impossible for displaced women or girls to reclaim or repossess their homes. Lack of shelter and limited access to land and sustainable livelihoods can also heighten their exposure to specific risks, such as rape, forced prostitution or trafficking.

Many of the factors that lead to deprivation of property to begin with are likely to pose obstacles to sustainable return and reintegration. The table below lists many of the factors that may need to be assessed and taken into account when developing and implementing strategies to prevent and/or respond to deprivation of property.

Table 1: Factors that can impact efforts to prevent and respond to deprivation of property

Type	Factors
Physical factors	<ul style="list-style-type: none"> • Lack of safety and security in areas of origin due to ongoing violence and/or the presence of landmines or unexploded ordnances on land and roads/paths. • Secondary occupation of land and homes, for instance by other displaced persons or combatants or members of rival ethnic, national or religious groups. • Damage and/or destruction of land, housing and property, often combined with lack of available material, tools and expertise for repair and reconstruction. Disputes over boundaries of land might arise upon return, particularly when landmarks have been destroyed or removed.
Political/Economic factors	<ul style="list-style-type: none"> • Ongoing conflict and tension over land and other resources and/or resistance to fair restitution to displaced individuals and communities. • Privatization or re-allocation of socially or publicly-owned land or housing immediately prior to, during or after cessation of conflict, without regard to existing ownership, tenancy or occupancy rights. Such practices are often used to secure political support, consolidate ethnic cleansing, or gain financial profit, for instance by allocating land to large business corporations. They may also be part of structural adjustment and other development aid programmes. Privatisation and re-allocation programmes often discriminate against women, minority groups and indigenous peoples. As an example, informal titles and the rights of women and girls are often ignored during privatization and establishment of formal title. • Sharp increase or decrease in value of land, housing and property, making fair restitution and/or compensation difficult to achieve or subject to abuse. For instance, compensation based on pre-conflict prices might not be sufficient to acquire land or housing elsewhere.
Legal factors	<ul style="list-style-type: none"> • Discriminatory laws, rules and regulations that target certain ethnic or religious groups and restrict their ability to reclaim lost property.

	<ul style="list-style-type: none"> • Gender or age discrimination rooted in discriminatory laws or cultural beliefs and practices that prevent women from owning, inheriting, controlling or making use of property, including upon divorce or upon the death of their husbands, fathers or other male relatives. • Inappropriate use of abandonment laws and regulations, resulting in seizure of vacated property after certain, often short, periods of time. Such laws have been abused to punish people for fleeing or to prevent people of certain ethnic, religious or other groups from returning and reclaiming property, thus consolidating practices of deliberate displacement or ethnic cleansing. Where abandonment, regardless of its duration, is the result of armed conflict, violence, discrimination or other violations of rights, it should not be held against the owner or result in loss of rights. • Forced or fraudulent housing sales or rental “contracts” made under duress prior to or at the time of flight, often without substantial or real compensation. • Existence of complex and parallel systems of ownership/tenure, based on different sources such as law, custom, tradition, or religion. These can take different forms, ranging from legal title or tenancy/occupancy rights in socially-owned properties, to permanent or temporary user rights in extended family-, collectively- or traditionally-owned properties.
<p>Institutional/ administrative factors</p>	<ul style="list-style-type: none"> • Lack of documentation and/or lack or destruction of cadastral or other title records. In some cases, people might never have possessed documents attesting to title or tenancy rights or these might have been destroyed, lost or confiscated in the course of displacement. • Lack of resources to pursue property claims, including lack of financial, legal and social support for individuals to pursue their legal claims, particularly women and children who face discriminatory property legislation. • Lack of expertise, capacity and/or capability, for instance due to corruption, within central and local state institutions, including courts, tribunals or other dispute resolution mechanisms, making it difficult to resolve competing claims over property in a fair and efficient manner and/or establish specialized mechanisms to do so. • Lack of enforcement mechanisms, including absence, inability or unwillingness of police and law-enforcement authorities to respect and enforce decisions regarding restitution of property.
<p>Cultural factors</p>	<ul style="list-style-type: none"> • Discrimination and/or harmful traditional norms and practices disproportionately affecting women, including prohibitions for women to inherit property, requirements of celibacy or of marriage to relatives of deceased husband, and/or imposition of traditional but sometimes harmful “cleansing” rituals.
<p>Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org</p>	

2. International legal standards and the responsibility of the State

International (and regional) human rights law guarantees several rights that are of particular importance for those that have been, or are at risk of being, deprived of their land and property. The right to **peaceful enjoyment of property** includes the right to own, acquire (through purchase, gift or inheritance), manage and enjoy property, without discrimination of any kind. Women should have equal rights with men in all matters relating to property.¹

National authorities should refrain from arbitrarily depriving people of their property, protect such property from illegal interference by third parties, and ensure restitution and/or compensation of

¹ See e.g. Art. 17 of UDHR; Art 16(2)(h), and 15(2), CEDAW; Arts. 13-19 of ILO Convention No. 169; Art. 14 of AfCHPR and Art. 6(j), 7(d) and 21 of its Protocol on the Rights of Women in Africa; Art XXIII of AmDHR; Art. 21 of AmCHR; Art. 25 of ArCHR and Art 1 of Protocol 1 to the ECHR. The right is further affirmed in various resolutions of the GA, SC and the Council, formerly Commission, on Human Rights, as well as its Sub-Commission; and in the case law of the regional human rights courts. See also Principles 3-7 of Pinheiro Principles and Principle 21 of the Guiding Principles on Internal Displacement.

lost property to the rightful owners following a period of unlawful dispossession. The right to restitution and/or compensation is not conditional on the return to the area where the property is located, but remains valid even when a person chooses not return (often on the grounds of valid security concerns), but instead opts to resettle and integrate elsewhere.

Deprivation of property is not necessarily arbitrary or unlawful in all cases. The authorities may have a legitimate interest in regulating or seizing private or communal property. In order to be lawful any such action must, however, meet certain conditions. It must have a basis in law and serve a legitimate aim, such as protecting the public interest, and be proportionate to achieving this aim. It must also respect certain substantive and procedural safeguards. For example, evictions must be preceded with a timely warning and evictees must be given the opportunity to challenge the eviction order. Even when evictions are deemed to be lawful those affected should be provided with fair compensation.

The right to restitution and/or compensation for lost property is further reinforced by the **right to an effective remedy** for wrongful acts and violations of human rights.² Other important rights in this context include the **right to return**³, which includes not only the right to return to the area of origin but more specifically to return to one's home or place of habitual residence, the right to **freedom of movement and to choose one's residence**, the right to **respect for the home**, and right to an **adequate standard of living**, including housing and food.

These and other rights are further outlined in the UN Principles on Housing and Property Restitution for Refugees and Displaced Persons (*Pinheiro Principles*) and in Articles 21 and 29 of the Guiding Principles on Internal Displacement.

International humanitarian law requires all parties to a conflict, whether they are State or non-State actors, to distinguish at all times between civilian objectives and military objectives. More specifically it prohibits:

- direct and indiscriminate attacks and other acts of violence against civilian objectives
- using civilian property to shield military operations or objectives
- pillage and/or destruction of private and public property
- making private property the object of reprisals or collective punishment.⁴

Military objectives are generally defined as being limited to those objectives which by their nature, location, purpose or use make an effective contribution to military action and whose partial or total destruction, capture or neutralization, in the circumstances ruling at the time, offers a definite military advantage.

3. Preventing and responding to deprivation of property

Safeguarding property-related rights in situations of internal displacement requires multi-sectoral efforts that aim to:

- prevent arbitrary deprivation of property
- preserve property which has been abandoned or lost during displacement

² See Art. 8 of UDHR; Art. 2(3) of ICCPR; Art. 6 of CERD; Art. 30 of CRC; Art. 75(1) of the ICC Statute; and, at the regional level, Art. 10 and 25 of AmCHR; Art. 7 of AfCHPR and Art. 25 of its Protocol on the Rights of Women in Africa, and Art. 13 of ECHR. See also Arts. 35 and 26 of the Articles on State Responsibility, as well as resolutions of the Council, formerly Commission on Human Rights, including 2005/35. See also Principle 2 of Pinheiro Principles.

³ See e.g. Art. 13(2) of UDHR; Art. 12(4) of ICCPR; Art. 16(3) of ILO Convention No. 169; and, at the regional level, Art. 12(2) AfCHPR; Art. 22(5) of AMCHR; and Art. 3(2) of Protocol IV to the ECHR. See also Principle 10 of the Pinheiro Principles and Principle 28 of the Guiding Principles on Internal Displacement. The right also has been affirmed in resolutions of the UN Security Council, General Assembly and Human Rights Council (formerly Commission) and its Sub-Commission; as well as in the case law of the regional human rights courts.

⁴ See Rules 7-23 of Customary International Humanitarian Law, Volume I: Rules (ICRC, 2005). See also Arts. 33 and 53 of the Fourth Geneva Convention; Arts. 51 and 52 of Additional Protocol I; Art. 4(2)(g) of Additional Protocol II; Art. 28 of the Hague Regulations. See also Art. 2(b)(xvi) of the ICC Statute.

- provide an effective remedy for arbitrary deprivation of property, in the form of restitution and/or compensation.

Restitution, which refers to the return of lost property to its rightful owner, is generally the preferred remedy as it both redresses the wrong done and facilitates return and reintegration in the area of origin. The right to restitution is not restricted to those holding legal title or claim to property, but also extends to other forms of ownership or title, such as tenancy, occupancy or user rights in collective or communal property.

The legitimate rights of third parties that may be affected by the restitution of land and property need to be taken into account, in particular those who acquired land or property in good faith and are obliged to leave it once it is restored to the original owners.

Compensation, in cash or in kind, can be given in lieu of restitution in cases where restitution is either impossible or impracticable, such as for reasons of security or public interest. It can be difficult to calculate the value of lost property, in particular if the value has changed during displacement, but efforts must nevertheless be made to ensure that any compensation is adequate and fair.

Experience indicates that compensation is less successful than restitution. In many cases, displaced persons either remain displaced or are displaced a second time because of difficulties to integrate and secure a sustainable livelihood in areas of relocation. In addition, land and other property may have a symbolic, cultural or religious value which compensation can rarely address.

Restitution and/or compensation usually take place through existing judicial, administrative or traditional mechanisms. Where such mechanisms are non-existent, mal-functioning or over-burdened, special land and/or property claims commissions can be established. Efforts to address land and property disputes should always be accompanied with mediation and reconciliation efforts, which can help to reduce the risk of renewed conflict and displacement.

Regardless of the form that they take, restitution and/or compensation mechanisms should meet certain minimum standards, including:

- Be independent, impartial and transparent, respect standards of due process, and use all appropriate forms of remedies, including both restitution and fair and equitable compensation. Such mechanisms should not be prejudiced by or promote the return or non-return of internally displaced persons.
- Be accessible to all those that have been deprived of their property, regardless of current place of residence or socio-economic status; be free of charge; and enable submission of claims in all relevant languages. Displaced individuals and communities must be informed of such mechanisms through sufficient and appropriate outreach and public information.
- Decisions should be respected by political, judicial and administrative authorities and be enforced by law-enforcement authorities, while taking into account the rights of secondary occupants and evictees by providing, where appropriate, alternative land or housing.
- Their mandate should cover all residential sectors and address different types of land, housing and property rights, and extend them not only to those with legal title to property, but also to tenants, usage rights holders, dwellers and customary rights holders.

4. The role of human rights and humanitarian actors

Safeguarding land, housing and property rights should form part of the protection strategy during all stages of displacement. These rights are integral to any attempt to restore justice and the rule of law in post-conflict settings and to ensure a safe, sustainable and dignified return. With the realization of these rights, displaced persons might have better chances of earning their livelihoods, would be less dependent on humanitarian assistance, and might be less exposed to further violations.



In our work we can ...

Assessment and analysis

(See Part III.1)



- Ensure that protection assessments and analyses adequately address land and property issues, and support specialized land and property assessments where these take place. This could, for example, include analysis of: (i) the different legal, cultural or traditional systems of ownership, tenancy and use of land and property; (ii) distribution of land among different population groups; (iii) any disputes or root causes of conflict related to land or property; (iv) existing laws and mechanisms for restitution and/or compensation; (v) the obstacles IDS face or are likely to face when trying to preserve or reclaim property.

Prevention

- Encourage relevant authorities and other actors to respect property related rights and refrain from evicting or displacing individuals and communities from their land or property. The authorities should also ensure that relevant procedural safeguards are complied with when displacement is unavoidable and lawful, and that individuals have access to appropriate remedies.
- Encourage relevant actors to take measures to protect property rights once displacement has occurred. Such measures could, for example, include temporary freeze on the purchase or transfer of land and property in areas affected by or at high risk of displacement, and/or the organisation of public information and outreach campaigns to discourage secondary occupation or damage of abandoned land and property.
- Try to collect information, for instance during registration, about any land, housing and other property that displaced individuals and communities may have lost or been forced to abandon. Where security conditions allow initial housing, land and property rights assessments should be conducted.

Contingency-planning

- Encourage the authorities to take measures to ensure that displacement does not result in loss or destruction of land and property registries, cadastral records and/or personal documents that can provide proof of ownership or tenancy or user rights. This may, for example, include ensuring that registries and records are kept in a safe location and that back-ups/copies are regularly taken and safely stored.

Legislation

- Following a review of national laws, policies and practices, including traditional and cultural practices, advocate with relevant authorities to ensure that the rights to land and property are adequately protected in national legislation, without discrimination of any kind, including on grounds of gender. The authorities should be encouraged to take note of and use relevant international standards and principles, such as the Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons.

Capacity-building

(See Part IV.4)



- Build the capacity of land/property registries offices and/or existing judicial, administrative, traditional and other mechanisms that can resolve land and property disputes in a fair, effective and timely manner and with respect for international law and standards. This can include the provision of training, technical and operational expertise, and modest financial or material assistance, including office and other equipment. Such efforts should draw on lessons learned in other contexts.
- Where existing mechanisms are mal-functioning or over-burdened consider supporting the establishment of specialized tribunals or commissions that can address property-related claims. Such mechanisms must respect basic substantive and procedural safeguards, and be fair and non-discriminatory.



<p>Training</p>	<ul style="list-style-type: none"> • Support, facilitate or undertake training programmes in human rights, including housing, land and property rights, for displaced persons, national and local authorities, national human rights commission, NGOs, and civil society organizations.
<p>Information and communication activities (See Part IV.6)</p> 	<ul style="list-style-type: none"> • Support information activities that provide displaced persons and affected communities with information about property-related rights and any available avenues or mechanisms for reclaiming or seeking compensation for lost property. • Seek to inform displaced individuals and communities about the importance of safeguarding documents and any other material that can provide evidence of their title to land and other property.
<p>Legal advice and assistance (See Part IV.5)</p> 	<ul style="list-style-type: none"> • Support legal aid clinics and networks of lawyers, paralegals and others that can provide legal advice and assistance to displaced persons and returnees. In addition to giving advice, such centers and networks could assist individuals in filling in forms, appearing before property tribunals or commissions, and reaching a settlement. They could also facilitate dialogue and reconciliation among opposing sides by mediating and/or acting as ‘good offices’.
<p>Physical safety (See Part V.3)</p> 	<ul style="list-style-type: none"> • Advocate with relevant authorities and other actors, including peacekeeping missions where present, to guarantee the security and safety of persons that have, or wish to, return and/or reclaim their land or property. • Liaise with relevant national and international actors to ensure that any mine-affected areas are identified, assessed, and cleared at the earliest opportunity. This should include land, homes, public spaces, such as schools and market sites, roads, and paths (e.g. those used by women and children to collect water or firewood).
<p>Monitoring (See Part IV.1)</p> 	<ul style="list-style-type: none"> • Monitor potential negative impact of land distribution or restitution programmes to prevent further violations of rights, particularly where such systems aim to establish legal title over land, housing or property that was previously publicly, collectively or communally owned/used. Pay particular attention to the ability of women, children and indigenous peoples to claim and establish title.
<p>Shelter / Livelihoods (See Parts V.13 and 16)</p> 	<ul style="list-style-type: none"> • Advocate for allocation of land to displaced individuals and communities during displacement to facilitate self-reliance and sustainable livelihoods. This can include temporary or permanent allocation of governmentally-owned land or purchasing/loan of privately-owned land. Special efforts must be made to reach an agreement with landowners who resent the presence of IDPs on their land to avoid tensions from arising and secondary displacement from taking place. • Advocate for and support programmes that provide transitional, temporary or permanent housing to meet immediate needs for shelter. Such programmes can involve repairs of damaged housing, construction of new housing, or identification of public property that can serve as temporary shelter. Use of temporary shelter should not in any way undermine a person’s right to restitution or compensation for lost property.
<p>Community mobilization and reconciliation (See Part IV.10)</p> 	<ul style="list-style-type: none"> • Encourage and support national consultations, including all relevant stakeholders, aimed at identifying challenges or obstacles to accessing remedies and finding fair and practical solutions to land, housing and property-related claims. • Work with and support local authorities, civil society and other community groups to address issues relating to land and property, including through active dialogue, mediation, and reconciliation efforts.



Durable solutions

(See Part VI)



- Advocate for the inclusion of provisions on housing, land and property rights, and restitution and/or compensation, to be included as a part of a human rights/rule of law component of peace agreements, development and/or voluntary return agreements, policies and programmes.
- Encourage the authorities to allocate land to displaced individuals and communities who cannot or prefer not to return to their areas of origin. Allocation of land should be permanent and the new owners/users provided with documentation providing proof of ownership or tenancy/user rights in order to avoid evictions and renewed displacement. Single heads-of-households and older persons should be allocated land on equal basis with others.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org



5. Key actors

In addition to displaced individuals and communities, key partners include:

- At the **national level**, ministries of interior, justice and social affairs, courts and tribunals, administrative or specialized property tribunals or commissions, traditional, customary or religious councils, national human rights commissions, social/housing service agencies, legal or paralegal networks, and civil society.
- At the **international level**, key actors include UNDP, HABITAT, FAO, OHCHR, IOM, UNHCR, the World Bank, Regional Developmental Banks, and various NGOs, such as the Norwegian Refugee Council. The UN Human Rights Council also has a Special Rapporteur on the right to housing and a Special Rapporteur on the right to food can also play a role.



References

- *United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (Pinheiro Principles)*, COHRE, 2005. www.cohre.org
- *A Handbook on Implementing the Pinheiro Principles on Housing and Property Restitution for Refugees and Displaced Persons*, FAO/NRC/OCHA/OHCHR/UN-HABITAT/UNHCR, 2007. www.refworld.org
- *Housing and Property Restitution for Returnees*, Refugee Survey Quarterly, Vol. 19, No. 3, UNHCR and Oxford University Press.
- *Remedies for Violation of Rights to Housing, Land and Property*, in Manual for Domestic Legislators on the Implementation of the Guiding Principles on Internal Displacement in Domestic Law and Policy, Brookings-Bern Project on Internal Displacement and American Society of International Law, forthcoming 2008.



Useful websites

- Centre on Housing Rights and Evictions (COHRE): www.cohre.org
- Internal Displacement Monitoring Centre (IDMC): www.internaldisplacement.org
- United Nations Human Settlements Programme (UN-HABITAT): www.unhabitat.org
- International Organization for Migration (IOM): www.iom.int/pressproject

Political Participation and the Right to Vote



Key message

All persons, including those who are internally displaced, have the right to participate in the governmental and public affairs of their country, including the right to vote and to stand for election to public office. Internal displacement, however, can make it difficult for individuals to exercise their rights to political participation, particularly in elections. As a result, IDPs risk being denied a voice in the political and economic decisions that affect their lives.

1. Political participation in the context of internal displacement

The term political participation includes any form of engagement in the political and public life of a community, including seeking and holding public office, participating in the work of political parties or opposition groups, and voting and standing for elections. When conducted in a fair and inclusive manner, elections can pave the way for peace, national reconciliation and good governance, thus fostering long-term stability and durable solutions to displacement.

In practice, however, internally displaced persons often cannot exercise their electoral rights, whether during displacement or upon return to their areas of origin or settlement elsewhere in the country. This can result in disenfranchisement and exclusion from the political and public life of the country, which, in turn, can exacerbate the discrimination and marginalization that displaced persons and communities often experience. The obstacles that displaced voters often face include the following:

- **Restrictive residency requirements** – National electoral regulations generally link the exercise of electoral rights to the place of residence. Displacement, which by definition entails a temporary or permanent loss of residence, thus makes it difficult for the internally displaced to register and vote: in some cases, they may even be required to return to their areas of origin, which often remain unsafe. Registering to vote in the area of displacement is often difficult, for instance owing to strict residency or documentary requirements, or unfeasible, as it can result in loss of humanitarian assistance or automatic de-registration in the area of origin, creating obstacles to return.
- **Lack of documentation** – Identity documents, which are often needed in order to register and vote, are frequently lost, destroyed or confiscated during displacement. It can be difficult to obtain replacement documentation and it may require IDPs to return to their areas of origin. Certain individuals and groups may have lacked documentation prior to displacement or be denied documentation owing to discriminatory laws and practices. Women and girls, for example, are often unable to acquire documentation in their own names and must register as dependents of spouses or male relatives, which violates their rights and leaves them without the means to prove their identity, especially in case of family separation or death of these relatives.
- **Discrimination** – Discriminatory laws and practices, which may have contributed to displacement to begin with, can mar all aspects of the electoral process. In some cases, displaced voters or certain groups of displaced voters, such as ethnic minorities, have been deliberately barred from voting; given access to fewer or more remote polling

stations with shorter voting hours; subjected to cumbersome registration procedures; or lacked access to electoral information in a language they understand.

- **Conflict and insecurity** – Elections sometimes take place in a climate of ongoing violence or communal tensions. Voters and candidates have been threatened, harassed or assaulted at all stages of the electoral process: during voter registration, when obtaining replacement documentation, while en route to or at polling stations, during the electoral campaign, or when taking office. Elections can only be free, fair and legitimate if voters can participate without fear of risk, intimidation or harm.
- **Lack of access** – Access to polling stations is often limited in situations of displacement owing to lack of security, long distances, lack of safe and affordable transport, or inadequate voting arrangements, such as insufficient number of polling stations. Women, older persons, and persons with disabilities face particular obstacles in this regard.
- **Lack of information** – Displaced persons, in particular those residing in camps or settlements, often lack information, in a language which they can understand, about political processes, parties and voting arrangements.

2. International legal principles

The **right to political participation**, which is guaranteed in international and regional human rights law, includes the right to participate in government and public affairs, to vote and stand for election, and to have equal access to participate in public service.¹

See also Principles 22(1)(d) and 29(1) of the Guiding Principles on Internal Displacement (Annex 1).

Certain limitations on the right to political participation are permissible but these must be reasonable, objective and non-discriminatory. For example, the right to vote can be limited to citizens who have attained the age of majority under national law. Any form of discrimination, including on the basis of gender, ethnic origin, religion or political opinion, is however prohibited, as are any restrictions on grounds of income, education, literacy, disability, descent, property status, political affiliation or displacement. Internally displaced persons thus have a full and equal right to political participation, including the right to vote, both while they are displaced and upon their return or settlement elsewhere in the country. Where residency requirements apply, these must not exclude internally displaced persons or any other voters without a permanent residence.²

Women have equal rights with men in all matters relating to political participation. States should take all necessary steps to ensure that women are able to exercise their political rights and participate at all stages of the electoral process, as well as during negotiations and implementation of peace agreements, and early recovery and development programmes.³

International law also protects a number of other rights which are important to ensure meaningful political participation, including:


- The right to **freedom of opinion and expression**, including the right to seek, receive and impart information in a language of one's choosing, without threat of harassment,

¹ See Art. 21 of UDHR; Art. 25 of ICCPR; Art. 5(c) of ICERD; Art. 7 and 8 of CEDAW; Art. 41 and 42 of CMW. At the regional level, see also Art. 13 of AfCHPR and various articles of its Protocol on the Rights of Women in Africa; Art. 23 of AmCHR; Art. 4(j) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women; Art. 19 and 33 of ArCHR; and Art. 3 of Protocol 1 to ECHR.

² See General Comment No. 25(1996) of the UN Human Rights Committee on the right to participate in public affairs, voting rights and the right to equal access to public service (Art. 25), paras. 3 and 11.

³ Discrimination between women and men is prohibited in the non-discrimination clauses of all major human rights instruments. See also Art. 7 CEDAW; the Convention on the Political Rights of Women; Art. 9 of the Protocol to the AfCHPR on the Rights of Women in Africa; as well as SC Resolution 1325(2000), op.para. 8.

coercion or violence. It implies the freedom to discuss, support and oppose ideas, candidates or political parties, including through the media, without risk of censorship or restraint, although propaganda for war and violence or advocacy of national, racial or religious hatred should never be tolerated.⁴

- The right to **peaceful association and assembly**, which includes the right to form and join organizations and associations, including political parties, to debate political and public affairs, and to hold peaceful demonstrations and meetings.⁵
- The right to **freedom of movement**, which includes the right to move freely, without fear or threat of harm, including for the purposes of campaigning, voting or assuming public office (see Part V.8). 

Elections should be free and fair, based on universal and equal suffrage and held by secret ballot, enabling voters to express their will freely and without violence, intimidation or threat. Internationally recognized electoral standards and principles should be respected, and mechanisms for independent and impartial review and appeal should be available.

3. The responsibility of the State

The State has a responsibility to ensure that displaced persons are able to exercise their rights to political participation, both while they are displaced and upon their return or relocation, on equal basis with other citizens in their country. In order to facilitate their participation the authorities can:

- Reform national law and administrative procedures to enable displaced persons to register and vote in the area of displacement, without facing any adverse consequences.
- Establish absentee registration and voting arrangements for displaced persons to enable them to participate in elections in their area of origin while they are displaced.
- Enhance security en route to and at polling stations, including by ensuring that adequate numbers of trained police officers, both female and male, are deployed.
- Conduct targeted public information and outreach campaigns to inform displaced voters about available registration and voting arrangements.
- Ensure that safe and affordable transportation to and from polling stations is available for displaced and other voters.
- Where needed, request international assistance to organize, supervise and monitor fair elections.⁶

4. The role of human rights and humanitarian actors

International assistance can be valuable where the State has limited capacity or lacks technical expertise and resources to ensure free and fair elections, including the full and equal participation by displaced voters and candidates. Election assistance and monitoring is a specialized area of international cooperation and should be coordinated by actors that have

⁴ See Art. 19 and 20 of UDHR; Art. 19 of ICCPR; Art. 5(d)(viii) of ICERD; Arts. 12, 13 and 17 of CRC; Art. 13 of CMW and Principle Art. 22(1)(a) of the Guiding Principles on Internal Displacement. See also at the regional level, Art. 9 of AfCHPR; Art. 7 of AfCRWC; Art. 13 of AmCHR; Art. IV of AmDHR; and Art. 10 of ECHR. See also General Comment No. 10(1983) of the UN Human Rights Committee on Freedom of expression (Art. 19).

⁵ See Art. 20 of UDHR; Art. 21 and 22 of ICCPR; Art. 14(2)(e) of CEDAW; and Art. 15 of CRC, and at the regional level, Art. 10 and 11 of AfCHPR; Art. 8 of AfCRWC; Art. 15 and 16 of AmCHR; Art. 4(h) of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women; Art. 28 of ArCHR; and Art. 11 ECHR. The right is reflected in the Principle 22(1)(c) of the Guiding Principles on Internal Displacement.

⁶ For detailed guidance on the specific legislative, administrative and institutional measures that States can take to ensure the electoral rights of internally displaced persons, see the paper "Democracy and the Displaced," by J. Grace and E. Mooney (2007) and its summary in the manual for domestic legislators that is being drafted by the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons (forthcoming 2008).

the required expertise and experience (see the section on key actors below). All human rights, humanitarian and development actors can however play an important role, including by assisting the State as well as displaced candidates and voters to participate safely in elections on a full and equal basis with others in their country.



In our work we can ...

Assessment and analysis
(see Part III.1)



- Ensure that protection assessments identify (i) any legal, administrative or practical obstacles to political participation by IDPs, paying particular attention to residency, registration and documentation requirements; (ii) the groups most at risk of exclusion from political and public affairs; (iii) the protection impact of lack of participation with regard to specific groups within the community, including on the basis of age, sex or other specific circumstances and (iv) key local, national and international actors that can help to address these obstacles.

Community mobilization
(see Part IV.10)



- Ensure that women, girls, boys and men of diverse backgrounds are consulted and take active part in planning, implementing and evaluating humanitarian projects and programmes. This can contribute to creating a culture of participation in public affairs among the population and the authorities.

Election monitoring

- Election observation and monitoring requires technical expertise and should be undertaken by specialized agencies/NGOs. Human rights and humanitarian actors can support their efforts, for instance by: (i) encouraging election monitors to pay attention to IDPs' ability to exercise their political rights, (ii) sharing information about any obstacles faced by IDPs; and (iii) providing advice and help to address such obstacles.

Advocacy
(see Part IV.3)



- Advocate with relevant authorities for fair, transparent and inclusive political processes. Encourage the authorities to respect the political rights of IDPs and take any obstacle they may face into account when developing and implementing electoral policies, practices and frameworks. This may include: (i) legal and administrative reform; (ii) establishment of absentee registration and voting arrangements; (iii) easing of residency, documentation and other restrictive requirements; and (iv) ensuring that women are issued documentation in their own names. Advocate with national and local law-enforcement agencies and with regional and international actors, if present, for measures to ensure safety during all phases of the electoral process.

Information, education and communication activities
(see Part IV.6)



- Support voter-education campaigns aimed at informing IDPs and other affected communities about: (i) their political rights; (ii) where, when and how to register and vote, including any absentee voting arrangements; and (iii) the availability of complaints and appeal mechanisms. Such campaigns must reach both women and men of different ages and diverse backgrounds in areas where IDPs are located, including in camps and settlements; be conducted in a language which they understand; and take place through appropriate information channels. As an example, use of radio may be more appropriate than printed media among groups with limited literacy skills.

Technical advice and assistance
(see Part IV.4)



- Help build the capacity of the authorities to conduct free and fair elections. Technical advice and assistance can be provided by specialized actors, but human rights and humanitarian actors can support such efforts, for instance by providing information about the obstacles faced by IDPs and the ways to address these. In some cases, material or financial assistance can be provided, for example to establish absentee voting mechanisms or facilitate voter transportation.



Training

- Support training about the rights of IDPs, including the right to political participation, and standards for free and fair elections, for relevant stakeholders, including: government officials, particularly electoral officials and law-enforcement agencies, IDP communities, particularly community leaders, both female and male, and local NGOs and civil society.

Presence and monitoring

(see Parts IV.1 and 2) 

- Maintain visible protection presence in areas of displacement during and immediately after elections, if security conditions allow. Visible protection presence can encourage participation and discourage election-related fraud, violence and abuse.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org



5. Key Actors

- At the **national level** key actors include, displaced individuals and communities; national electoral commissions; Ministry of justice and the Interior; national courts and tribunals; law-enforcement agencies; national human rights institutions; local NGOs and civil society, including the media.
- At the **regional level** key actors include, *In Africa*: the African Union's Election Unit; at the sub-regional level, the Economic Community of West African States (ECOWAS) and the Southern African Development Community (SADC). *In the Americas*: the Organization of American States (OAS) Unit for the Promotion of Democracy. *In Europe*: the Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE); the European Commission for Democracy through Law (Venice Commission) of the Council of Europe; and the European Union.
- At the **international level** key actors include, United Nations Electoral Assistance Division (EAD) of the Department of Political Affairs; International Organization for Migration (IOM), particularly its project on Political Rights and Enfranchisement System Strengthening (PRESS); International Institute for Democracy and Electoral Assistance (IDEA); Inter-Parliamentary Union (IPU); the Commonwealth Secretariat; and the United Nations Office of the High Commissioner for Human Rights (OHCHR). In addition, a number of international NGOs, such as the International Foundation for Electoral Systems (IFES) and the Carter Center, provide electoral assistance and undertake election-observation missions.



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- *Democracy and the Displaced: Political Participation Rights, in Particular the Right to Vote and to Be Elected*, by J. Grace and E. Mooney, Brookings-Bern Project on Internal Displacement and American Society of International Law, 2007.
- *Enfranchising Conflict-forced Migrants: Issues, Standards, and Best Practices*, by J. Grace and J. Fischer, Participatory Elections Project (PEP), Discussion Paper No. 2, IOM, 2003. http://www.geneseo.edu/~iompress/Archive/Outputs/Standards_Final.pdf
- *Political Participation, in Particular Electoral Rights*, in *Manual for Domestic Legislators on the Implementation of the Guiding Principles*, Brookings-Bern Project and American Society of International Law, forthcoming 2008.
- *Displaced and Disenfranchised: Internally Displaced Persons and Elections in the OSCE Region*, by E. Mooney and B. Jarrah, in 29 *Ethnopolitics* 36, 2005. <http://www.informaworld.com/smpp/content~content=a713735032~db=all>
- *Internally Displaced Persons' Voting Rights in the OSCE Region*, by E. Mooney and B. Jarrah, Brookings-SAIS Project on Internal Displacement, 2004. www.brookings.edu/idp
- *Enhancing Women's Participation in Electoral Processes in Post-conflict Countries*, UN Office of the Special Adviser on Gender Issues and Advancement of Women, UN Doc. EGM/ELEC/2004.

- *Women and Elections: Guide to Promoting the Participation of Women in Elections*, United Nations, 2005.
- *Training Manual on Human Rights Monitoring*, Chapter XIV: Election Observation, OHCHR, 2001.



Useful websites

- Electoral Assistance Division (EAD) of the United Nations Department of Political Affairs: www.un.org/Depts/dpa/ead/
- European Commission for Democracy through Law (Venice Commission) of the Council of Europe: www.venice.coe.int/site/main/Elections_Referendums_E.asp
- Inter-Parliamentary Union (IPU): www.ipu.org/dem-e/overview.htm
- International Institute for Democracy and Electoral Assistance (IDEA): www.idea.int/
- Office for Democratic Institutions and Human Rights (ODIHR) of the Organization for Security and Cooperation in Europe (OSCE): www.osce.org/odihr-elections/
- Political Rights and Enfranchisement System Strengthening (PRESS) project of the International Organization for Migration (IOM): www.geneseo.edu/~iompres/

Shelter



Key message

Shelter is high on the list of life-sustaining essentials. It is a key protection priority. The right to shelter involves both access to adequate shelter and the sustained ability to enjoy an adequate standard of shelter. While urgent operational requirements tend to impose certain shelter solutions, the meaningful participation of the community in decisions related to shelter is essential. Groups with specific needs require additional attention to ensure their access to shelter. Gradual improvement of shelter throughout the displacement cycle is vital, while working towards a durable shelter solution.

1. Shelter options in situations of internal displacement

Humanitarian interventions usually include shelter programmes that support access to *emergency* shelter and/or *transitional* shelter, depending on stage of the operation.

When humanitarian agencies refer to *shelter*, they generally mean habitable, covered living space, providing a secure and healthy living environment with privacy and dignity. A *settlement* is a group of shelters. In an internal displacement context, settlements can be located in urban and rural areas and they can be *dispersed* or *grouped*. Depending on the circumstances, internally displaced persons usually resort to one of the following shelter options:

■ Dispersed settlement:

- *Host-family arrangements*: Living with friends, relatives, other families or in rental accommodation.
- *Rural self-settlement*: Living in a rural context informally, or on land owned collectively.
- *Urban self-settlement*: Living in an urban context informally, or on land owned collectively.

■ Grouped settlement:

- *Collective centres*: Living temporarily in pre-existing structures, such as hotels, schools or public/ government buildings.
- *Self-settled camps*: Settling without the support of the government or the humanitarian community.
- *Planned camps*: Living on purposely-built sites, completed before or during the influx.

Where safe and appropriate, displaced populations should be supported in their respective settlement options. Their decision will be based on considerations of safety, the family's history and solidarity networks, and the extent to which a settlement provides access to water and sanitation, adequate covered living space, health-care services, education, recreational areas, childcare, markets and livelihood opportunities.

Generally, staying with host families is the preferred alternative for displaced populations, as it builds on their own coping mechanisms and enables them to live in more dignified conditions, surrounded by extended family or friends. Although camps are considered an option of last resort, they might be the only viable option when dealing with large influxes.

2. Protection risks associated to inappropriate shelter

Specific shelter modalities may seem the best option at one point, yet they can only be adequate if they reach adequate standards and allow the respective individuals or groups to live in safety and dignity. Initial conditions can deteriorate along the displacement cycle both because of the inability to maintain and improve the shelter itself or because of the interaction between groups of displaced persons as well as between these and other affected communities. Continued monitoring and evaluation should take place to measure the standards and overall conditions of shelter and identify possible protection risks related to inappropriate standards or a threatening environment. Such evaluations should lead to different assistance interventions as well as to seeking alternative shelter options.

Risks related to inappropriate shelter options	
In host families	<ul style="list-style-type: none"> • In protracted situations, deteriorating living conditions of families hosting large number of displaced persons might lead to health and psycho-social problems, as well as risks of stigmatization, harassment, economic or sexual exploitation, and violence against the displaced families. • In areas where IDPs are not welcome, both host and displaced families might be targets of retaliation by parties to the conflict or by surrounding communities.
In dispersed settlements (urban or rural)	<ul style="list-style-type: none"> • Settling amid villages, towns or in the forest may be part of a protection mechanism by IDPs to avoid attracting attention. However, it might be difficult to monitor and identify IDPs' protection concerns, due to their isolation. • Those settled spontaneously on private or public land are often under constant threat of being evicted by landlords or authorities. Again, their possible isolation may make it difficult for humanitarian actors to intervene in case of threat of eviction, harassment or other protection concerns.
In medium-to large grouped settlements	<ul style="list-style-type: none"> • Over time, overcrowding and degrading living conditions, lack of prospects for solutions, breakdown or poor enforcement of law and order, assistance dependency and trauma related to the causes and consequences of displacement can lead to grave protection problems. • IDPs settled in collective centres are often under threat of being evicted by landlords. Those occupying schools or religious and other public buildings are under constant pressure to leave. • Relations with the host community, as well as within IDP groups, might deteriorate over the sharing of limited resources, the depletion of nearby forests for firewood, the occupation of land by IDPs or the requisition of land, by local authorities, on behalf of displaced persons. • Tensions might also arise with the presence of an ethnically, culturally, religiously or linguistically different group of people amid a frightened community. • Despite the fact that a larger group settlement may be more secure for IDPs than dispersed and exposed shelters, a large group settlement can be easily targeted for forced recruitment and attacks, including aerial bombings. • A proliferation of good-quality shelters in an area where standards of housing are low can create tension with local communities unless they also benefit from the humanitarian intervention, such as by greater labour opportunities in the area of construction.

2. Individuals and groups at particular risk

Displaced unaccompanied children, particularly child-headed households, are especially exposed to protection risks related to the lack of appropriate shelter, including trafficking and various forms of violence, abuse or exploitation. Tracing their families and/or identifying foster family arrangements should thus begin immediately. In the meantime, all efforts should be undertaken to secure safe housing for these children and establish monitoring procedures by specialized agencies and the community itself.

Single women or female-headed households can be at greater risk of harassment, assault or exploitation if they live in shelters without proper walls, partitioning or the possibility to lock a door.

Unaccompanied older persons might have difficulties constructing their own shelters or might need to share shelter with others. Unless they receive targeted support, they can find themselves in a precarious and undignified situation of dependency.

During conflict, ethnic or religious minority groups might be unwelcome among the host population or within the IDP population itself, and have difficulty finding shelter. Displaced families who do not own land or property may face heightened protection risks, as the legal and administrative mechanisms to support them may be less clear. Such families, which include tenants of houses and apartments as well as spontaneous settlers, may constitute a large proportion of the affected populations. Very often, they are also the most deprived and defenseless among these.

3. Key international legal standards and the responsibility of the State

The right to adequate shelter is one aspect of the right of every person to enjoy an adequate standard of living. This right was first recognized in the Universal Declaration of Human Rights¹ and subsequently included in various international human rights instruments.²

While the right to adequate shelter applies to all persons, specific provisions exist at the international level emphasizing its applicability to internally displaced persons. This is for instance the case of the Guiding Principles on Internal Displacement³. The UN Principles on Housing and Property Restitution for Refugees and Displaced Persons, known as the *Pinheiro Principles*, also contain specific reference to the right to adequate housing and request States to take *positive* measures to alleviate refugees and internally displaced persons living in inadequate shelter.⁴

In some situations, the State may claim that it does not have the ability to protect the right to adequate shelter, be it for lack of financial resources, inexistent or ineffective law enforcement mechanisms or inability to access to parts of its territory. Notwithstanding this, it must demonstrate that it has made a maximum effort to use all the resources at its disposal to satisfy the essential need to shelter. Such resources include, “those available from the international community through international cooperation and assistance.”⁵ This does not mean that the state needs to build houses for all the population on its territory. As other economic, social and cultural rights, the right to shelter is of progressive realization. The State needs to take the necessary steps to respect, protect and fulfill this right.

¹ Art. 25 of UDHR; art

² Art 11 (1) of ICESCR, Art. 27(3) of CRC; Art 17 (1) of ICCPR, Art 5(e)(iii) of CERD, Art. 14(2)(h) of CEDAW; Art. 43(1)(d) of CMW; Art. 20(2)(a) of AfCRWC; Art 16 of AfCHPR Protocol on the Rights of Women; Art XI of AmDHR .

³ Guiding Principle 18 provides that “all internally displaced persons have the right to an adequate standard of living” and that “At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:...basic shelter and housing”

⁴ See Principles 2 and 8. See also the Handbook on implementing the Pinheiro principles, referenced at the end of this chapter.

⁵ Idem

In emergency situations, the minimum requirements that need to be fulfilled in relation to the right to adequate shelter would be⁶ privacy, security of person, health and food.

International Humanitarian Law protects the right to shelter through preventative measures, mainly through the requirement that all parties to a conflict, whether they are State or non-State actors, distinguish at all times between civilian and military objectives. Concretely, it includes the prohibition from attacking civilian homes, including those of internally displaced persons, their use to shield military operations or objectives, pillage or destruction and making them the object of reprisals or collective punishment.⁷

In situations where internal displacement is ordered by the State for justifiable reasons, the law requires that positive measures be taken to protect any property left behind and ensure satisfactory conditions while in displacement, including shelter.⁸

In international armed conflicts, IHL establishes a positive obligation to State and non-state actors to ensure the provision of shelter and other supplies essential to the survival of the civilian population. Where the civilian population is not provided with such supplies, the parties to the conflict must allow for relief actions, which are humanitarian and impartial in character.⁹

IHL also sets forth some essentials of humane treatment with regard to detained or interned persons which also apply to internally displaced persons detained or interned in camps¹⁰. Those guarantees include “protection against the weather and the dangers of the armed conflict” to the same extent as the local civilian population. Provision of shelter may be inferred from this expression.

4. The role of human rights and humanitarian actors


Adequate shelter is a vital component of a comprehensive protection strategy. Activities to support national authorities and IDP communities in securing access to adequate shelter must integrate relevant protection considerations. The matrix below contains general considerations applicable to all humanitarian interventions in the area of shelter, as well as specific protection considerations pertaining to each shelter option, as appropriate.



In our work, we can...

In all situations

Cross-cutting protection considerations

- **Incorporate shelter in emergency interventions:** where safe and appropriate, shelter support and assistance should be part of the early relief and emergency response to the crisis. Shelter interventions in these early stages can reduce the fluidity of the population. Thereby, they can help to mitigate or avoid additional displacement-related protection risks
- **Secure land tenure:** ensure that land tenure (temporary or permanent) is secured before embarking on emergency, transitional or permanent shelter construction. (see Part V.11, Land and Property) 



⁶ IASC Gender Handbook, Different Needs – Equal Opportunities, Gender and Shelter in Emergencies

⁷ Rules 7-23 of Customary International Humanitarian Law, Volume I: Rules (ICRC). See also Arts. 33 and 53 of the Fourth Geneva Convention; Arts. 51 and 52 of Additional Protocol I; Art. 4(2)(g) of Additional Protocol II; Art. 28 of the Hague Regulations. See also Art. 2(b)(xvi) of the ICC Statute.

⁸ See Art. 17 of Additional Protocol II.

⁹ See Arts. 69 and 70 of Additional Protocol I.

¹⁰ See Annotations to the Guiding Principles on Internal Displacement, Walter Kaelin, Studies in Transnational Legal Policy No. 32, Appendix II: Compilation and Analysis of Legal Norms (Part I), Para. 189, pg. 142.

- **Build upon local materials, existing capacities and the environment:** take into consideration the short- and long-term impact of temporary settlements on host communities and the environment within comprehensive planning activities. Whenever possible, locally acceptable and available materials and labour should be used to benefit the local economy, while not depleting local resources. Promote modalities of shelter that enable displaced persons to upgrade their own shelters from transitional to more permanent structures, as their situation evolves.
- **Reinforce the community's self-help capacity:** encourage traditional construction methods, particularly in areas where transportation of shelter material is restricted for logistical or security reasons,¹¹ If traditionally men have been in charge of construction and women are interested in participating in construction activities, identify those who may be interested and support basic training in construction to give women opportunity to equally participate in the process. The same is true for men if women have traditionally been in charge of building.
- **Address specific needs ensuring dignity and promoting empowerment:** try to respond to the specific needs of child-headed households and single young and older women and men without creating further stress, danger and exposing people to stigmatization or undignified solutions. Include them in the planning and implementation phases of shelter interventions to build ownership and consensus among communities. Cash-for-work or food-for-work schemes, as well as child-care arrangements can be useful to support households with specific needs in building their own shelters. Monitor the implementation of such schemes to avoid exploitative and fraudulent practices.
- **Coordinate closely with partners other sectors that can affect the quality of shelter** (i.e. water and sanitation, livelihoods, communal infrastructure, etc). Promote joint planning among them. Ensure good coordination in the dialogue with members of the community. Coordinate with partners to establish child-friendly spaces where children can meet and share their experiences. Promote respect for social customs for dealing with the remains of the dead while ensuring that existing facilities such as graveyards or crematoria are adequate.¹²

Assessment (See Part III.1)



- Ensure that protection or community-services staff work alongside shelter specialists and site planners in all multi-sectoral assessments and specialized shelter assessments to ensure that protection implications of shelter interventions are taken into account at the onset.
- In situations of armed conflict, undertake a thorough assessment of the root causes of the conflict to ensure that they are taken into account when planning for, designing or supporting the relevant shelter options.
- Ensure participation of concerned IDPs and the other affected populations of different ages, sex and circumstances, as well as representatives of host communities during the assessment, to learn their different needs, concerns and perspectives.
- Work with the community to identify skilled women and men and adolescent girls and boys who can support shelter construction, from both the IDP and the other affected communities. Maximize the positive impact of shelter projects on the local economy and on the environment by carefully assessing which local materials and labor can be employed.
- Assess which groups in the community may not be in a position to construct, maintain or upgrade their own shelter, to develop appropriate support schemes.

¹¹ Items such as cement, iron bars, nails and wood poles might be considered as strategic items and be restricted in times of conflict.

¹² Graveyards should be at least 30 metres from groundwater sources used for drinking water, with the bottom of any grave at least 1.5m above the groundwater table. See Sphere Humanitarian Charter and Minimum Standards (referenced)

- Assess how unaccompanied older persons, girls and boys are accommodated and whether they are being cared for and supported by the community.
- Together with the affected communities, and taking into account local culture and traditions, humanitarian agencies should define what constitutes an eligible family or household. They should also define as the criteria and modalities for allocating assistance among different households. Prioritizing groups should be based on an assessment of their needs and not only on the basis of their situation as occupiers, hosts or owners. Both the displaced and host populations should be involved in such decisions.

Monitoring and evaluation

(See Parts III.3 and IV.1)



- Ensure that evaluations of shelter programmes go beyond the performance levels and also examine the protection impact of such programmes. Include protection indicators in the terms of reference of such evaluations.
- Conduct regular structured dialogues and discussions with individuals and groups of different age, sex and circumstances, particularly those with specific needs on shelter issues, to ensure that any protection concerns highlighted are discussed and resolved.
- Work with the community to set up monitoring or similar mechanisms to assess the living conditions of persons with specific needs in the community, such as older persons living without adult family members or child-headed households.
- Monitoring should be particularly careful in collective centres, where the lack of privacy and the often precarious living arrangements can expose women and children to situations of gender based violence, sexual exploitation and other forms of violence and abuse.
- Assess the effect of the provision of shelter on the relations between IDPs and the other affected communities. See whether it contributes to reducing or to exacerbating conflicts.

Host families

- In rural settings, depending on the size of the hosted family, provide shelter materials to build a separate transitional shelter in the host compound for privacy. When appropriate, an extension to the host-family shelter can be built instead. A partition should always separate the two families to avoid sources of tension or the risk of GBV.
- Support displaced families with technical advice to ensure their participation in the design construction and maintenance of the shelter and to ascertain the quality of the structure. Arrange for engineers and other technical experts to monitor the safety of construction.
- If a displaced family demonstrates an intention to host an internally displaced person with specific needs for an extended period, provide, if appropriate, limited material assistance to the host family to assist in coping with additional persons. This will help reinforce bonds with the host community and avoid tension.
- Monitoring programmes to avoid fraudulent or exploitative practices must be put in place in these cases. This can be done directly or through community networks.
- Secure the agreement, preferably in writing, by both the displaced and host families, as to who will own the shelter material after displacement, to avoid disputes.



Dispersed settlement**In urban settings**

- When necessary, lobby local authorities to waive documentation requirements in lease agreements for IDPs.
- Advocate for financial institutions to support local authorities' schemes to subsidize rentals.

In rural areas

- Identify local families with specific needs for shelter support.
- When appropriate, reinforce infrastructure in the receiving village, such as by upgrading an access road or a bridge or drilling additional wells or communal latrines to help the community cope with the influx of displaced persons.

In both cases

- Closely monitor the situation of particularly vulnerable individuals or households and build peer-support networks among IDPs and host communities to protect and support them.
- Ensure that protection and other humanitarian agencies adhere to strict standard operating procedures to safeguard confidentiality in their assistance interventions for those who wish to remain unnoticed.
- All actors involved in assisting dispersed shelters should ensure that their offices are well-known and recognizable through visibility signs so that individuals living in disperse settlements can approach them directly without difficulties.

Grouped settlement**Collective centres or Communal buildings**

- Work with the authorities and the IDP community to ensure that alternatives to shelter in communal buildings can be found quickly, (if possible in no longer than one month). Collective centres or communal buildings, such as schools and religious buildings should be closed or relocated as soon as possible, so that their original function can resume. Otherwise, tension may arise between the displaced and the other affected populations.
- When IDPs cannot be offered alternatives in the immediate future, work with them and host communities to ensure that a space is organized within the compound for the school or the church to reinstate its activities and to improve the space they are occupying as transitory shelter.
- Provide adequate material for partitions between- and within families staying in collective centres. Privacy is especially challenging in communal shelters. Even individual family shelters do not sometimes provide adequate privacy. Ensure that women or children are not compelled to share accommodation with men who are not members of their immediate family.
- Establish a strong monitoring and referral network among agencies to prevent gender-based violence or forced recruitment and to immediately follow up identified incidents. Communal buildings are likely to expose women and children to such risks. Sensitize communities and local authorities towards the prevention of- and response to these risks and support them in establishing a monitoring and reporting system.
- Keep track of arrivals and departures in each location to avoid fraud and duplication of assistance.



Camps: Site selection and layout

(See Part IV.12 and also Annex to this Action Sheet)



- Although land might be scarce, available sites might not meet all the desired criteria. Sensitize the host community and responsible authorities to the long-term protection and financial implications of selecting an unsuitable site.
- Ensure that physical planning is done with participation by the displaced community and taking full account of their protection needs. Analyze baseline data gathered from registration (ensuring breakdown by age and sex, and highlighting specific needs), and build the analysis into the site planning exercise.
- Site selection should also take full account of distances from essential services and local markets, existing relationships among the different communities and traditional living arrangements and security concerns. Avoid sites located near violent areas and, in the case of natural disasters, physically unsafe areas. Ensure that hazards that may impact the site are mapped, mitigated and monitored.
- When designing/constructing shelter units, integrate local building practices to the extent possible and select appropriate material as a priority.

Regrouping IDPs from the same village or extended families in shelters aligned in a U-shape design allows for families to watch for each other's children playing in the central area or guard belongings against theft. Such "cluster-planned village" communities can also provide a protective environment for individuals with specific needs.

- Ensure a minimum surface area per person of 45m¹³.
- Secure good road access to the site for humanitarian aid and monitoring and IDPs' access to nearby services and local markets.
- To minimize the impact of the camp on the environment, assess and support the natural resource management of both the displaced and host populations. Provide construction material and household energy fuels to avoid depleting local environmental resources, to protect vegetation needed to prevent soil erosion or flooding, and to safeguard agricultural lands and productive forests.
- Sensitize and train communities on health and fire risks and encourage the establishment of communal systems for fire prevention and vector control.

Minimum standards

- In addition to providing physical protection against the elements, provide sufficient floor space per person.¹⁴
- Avoid shared accommodation as much as possible to mitigate the risk of exploitation and abuse, particularly for single women and unaccompanied and separated children.
- Adjust shelters to the specific needs of persons with disabilities or chronically ill, female-headed households or unaccompanied older persons.
- To avoid gender-based violence, ensure that dwellings allow separation between the sexes, where culturally required, or between parents and children to provide privacy and safety. Provide material for partitions. Separate facilities like bathrooms and toilets should be constructed for women and men. They should not be isolated or in dark lonely areas where women and children may be sexually assaulted.



¹³ Including kitchen/vegetable gardening space. This also includes an apportioned common area for roads, foot paths, schools, sanitation, security, firebreaks, administration, water and other storage, distribution, markets.

¹⁴ Shelter area per person should average 3.50 – 4.5 m² in camp settings and no less than 1.50 – 2.50 m² for transit and temporary housing facilities (overnight stay only). Shelter standards depend on the climate: more interior space should be provided in cold weather than in warm climates.

Limited group settlements in existing villages

- Depending on the wishes of the IDPs, promote smaller settlements of 20-30 families in existing villages, as opposed to establishing larger camps. This will:
 - Contribute to a more normal living environment.
 - Allow for better absorption of the displaced population so that IDPs can benefit from access to the village market, local medical facilities, wells and work opportunities.
 - Reduce the cost for the government or the humanitarian community, as it obviates the need to set up a camp and provide all services.
 - Ensure that all additional infrastructures provided to the IDP settlement (wells, community buildings, classrooms) benefit the host village as well.
 - Lead to improved empowerment and autonomy of the community in securing its own protection.
 - Improve the possibility for local integration if IDPs choose that as a durable solution.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org



5. Key Actors

- In addition to displaced persons and communities, key partners include:
- At the **national level**, Ministries of public works and infrastructure, housing, social welfare, health, education, religious affairs and interior or home affairs; social-housing service agencies, national human rights commissions; engineering and architecture faculties, local industry and professional organizations.
- At the **international level**, key actors include, UNHCR, ICRC/IFRC, UNICEF, UNDP, UNEP, IOM, NGOs specialized in shelter or protection (such as ACTED, Care, Christian Aid, Disasters Emergency Committee, HMD Responses, GOAL, International Rescue Committee, Oxfam, RedR, The Save the Children Fund, the Shelter Centre or World Vision).
- When not available locally, expertise and advice should be sought through the Global Emergency Shelter Cluster, which can field a specialist to coordinate activities in this sector.



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- *Protecting Persons Affected by Natural Disasters*, IASC Operational Guidelines on Human Rights and Natural Disasters, 2006
- *Housing and Property Restitution for Refugees and Displaced Persons: Implementing the “Pinheiro Principles”*, FAO, NRC/IDMC, OCHA, OHCHR, UN-HABITAT, UNHCR, 2007
- General Comment of the committee on economic, social and Cultural Rights, No. 4, UN Document No. HRI/GEN/1/Rev.1 (29 July 1994)
- *Shelter after Disaster: Guidelines for Assistance* (trial edition to be published by OCHA, 2008)
- *Handbook for Emergencies*, UNHCR, 3rd Edition, 2007.
- Need-analysis Framework (NAF), OCHA, 2006



Websites:

- IASC Emergency Cluster: www.humanitarianinfo.org/iasc/content/cluster/shelter
- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org
- United Nations Human Settlements Programme (UN-HABITAT): www.unhabitat.org

ANNEX 1

Site selection review: issues for consideration

<p>1. Potential Beneficiaries</p> <ul style="list-style-type: none"> ● Numbers ● Characteristics (gender, age, background, language, etc.) 	<p>4. Complementary/Supporting Points</p> <ul style="list-style-type: none"> ● Presence of nearby villages/communities ● Accessibility by humanitarian and other service providers ● Proximity to national services: <ul style="list-style-type: none"> – Health – Education – Administration – Law-enforcement structures (police, courts) ● Electricity supply ● Proximity to economic centres ● Proximity to income-generating opportunities/agriculture ● Possibility to harvest wood for construction ● Possibility to collect firewood for fuel
<p>2. Location</p> <ul style="list-style-type: none"> ● Distance from major towns ● Distance from the conflict or risk zone ● Security and protection situation ● Local health and other risks ● Distance from protected areas (reserve forest, water reservoirs) 	<p>5. Observations/Recommendation</p> <p>Strengths/weaknesses of site</p>
<p>3. Basic Characteristics of the Site</p> <ul style="list-style-type: none"> ● Area, expansion possibility ● Land use and land rights ● Topography ● Elevation ● Soil condition ● Water availability (drinking/washing/livestock) ● Drainage ● Sanitation possibilities ● Climatic conditions ● Vegetation/other environmental condition 	<p>6. Proposed next steps for consideration</p>

Action Sheet 14

HIV



Key message

HIV is a global epidemic that affects persons of all ages, gender and socio-economic status. The epidemic has serious personal, social and economic consequences for those living with HIV as well as their families and communities. It is essential that appropriate HIV prevention, treatment, care and support is provided in all humanitarian emergencies, including in situations of internal displacement.

The *IASC Guidelines for HIV/AIDS Interventions in Emergency Settings* provide guidance on HIV prevention, treatment, care and support in emergency settings. They are available, in English and French, at www.aidsandemergencies.org. This Action Sheet provides basic guidance on HIV in situations of internal displacement but does not replace or duplicate the Guidelines, which should be implemented in all emergencies.

1. HIV and AIDS in the context of internal displacement

Currently over 40 million people are living with HIV, many of them in countries ravaged by conflict and displacement. There is no causal link, however, between displacement and HIV. Existing data confirms that prevalence rates among internally displaced persons do not, in general, differ from those of the general population. HIV infection rates depend on a number of complex factors, such as existing prevalence rates within the country, overall population mobility, the level of risk-taking behaviour, access to accurate information, and access to prevention, treatment, care and support services. Factors such as gender inequality, poverty and marginalization also play a part.

The conditions that often characterize displacement, such as conflict, human rights violations and breakdown of families and communities, can however increase the risk of a person's exposure to HIV. In particular, sexual violence and abuse can increase the risk of HIV infection.

Persons living with HIV or AIDS and their families, whether displaced or not, may face serious protection risks. They are often subject to discrimination, stigma and social exclusion as a result of their HIV positive condition and may be barred from accessing education, livelihood opportunities, and public services, such as health care. In some cases, they have seen their freedom of movement limited; been arbitrarily arrested and detained; subjected to physical or psychological violence, and suffered other similar violations of their rights. Their right to privacy

Some facts about HIV and AIDS

The human immunodeficiency virus (HIV) is a retrovirus that infects cells of the human immune system, destroying or impairing their function. In the early stages of infection, a person has no symptoms. However, as the infection progresses, the immune system becomes weaker, and the person becomes more susceptible to *opportunistic infections*.

The most advanced stage of HIV infection is acquired immunodeficiency syndrome (AIDS). It can take several years for an HIV infected person to develop AIDS. Antiretroviral treatment can slow the progress of HIV infection and allow those infected to lead normal lives.

HIV is transmitted through body fluids such as blood, semen and vaginal fluids, for instance during unprotected sexual intercourse (vaginal, anal or oral), transfusion of contaminated blood, sharing of contaminated needles, and between a mother and her infant during pregnancy, childbirth and breastfeeding.

and confidentiality, including as regards their HIV positive status, is also frequently compromised.

Such risks may be further compounded by the situation of displacement with devastating consequences for the displaced individuals, families and communities. Internally displaced persons often face additional discrimination and have limited access to information and HIV prevention, treatment, care and support, in particular where they suffer multiple displacements. Separation of families and lack of adequate shelter, food, water and basic services, such as health care, may seriously undermine their ability to cope with the physical, social and economic impact of the epidemic. Such factors may also weaken their ability to benefit from existing HIV treatment programmes, which require a long-term effort and the ability to closely follow a certain medical scheme.

2. Individuals and groups at particular risk

While HIV affects people without regard to their age, gender, ethnic or religious origin, sexual orientation or other status, women and children bear the brunt of the epidemic in many ways. Discrimination, inability to negotiate safe sex, and exposure to sexual violence and abuse, including forced prostitution and survival sex, can increase the risk of HIV infection. In addition, women and girls often have limited access to HIV information, prevention, treatment, care and support. They are also more likely to suffer from stigma, social exclusion and violence as a result of an HIV positive status. The responsibility for caring for orphaned children or ill family members also falls primarily on the shoulders of women and girls, often limiting their access to education and livelihood opportunities. Their property and inheritance rights are also frequently violated, with dire economic consequences.

Children and adolescents, of both sexes, as well as older persons, and persons living with disability, are particularly vulnerable to the effects of HIV. Children and adolescents may become infected as a result of mother-to-child transmission or exposure to sexual violence or drug abuse, and may have to take responsibility for younger siblings and older relatives upon the death of their parents. Similarly, older persons often carry the burden of caring for sick relatives and children orphaned by AIDS.

3. A multi-sectoral response

An effective HIV response will require a multi-sectoral approach that addresses both the short-term and long-term physical, social and economic aspects of the epidemic. Comprehensive guidance on HIV prevention, treatment, care and support can be found in the **Guidelines for HIV/AIDS Interventions in Emergency Settings**,¹ which should be implemented in all emergencies, including those involving internal displacement. For ease of reference, the table below gives examples of activities which may be appropriate and which are described in greater detail in the Guidelines.

Examples of multi-sectoral HIV prevention, treatment, care, support, and mitigation activities	
Prevention	<ul style="list-style-type: none"> • Develop HIV awareness-raising and sensitization programmes that encourage reduction in risk-taking behaviour • Ensure adequate prevention and response to sexual and gender-based violence • Ensure provision of post-exposure prophylaxis (PEP) to rape survivors • Implement universal precautions, such as safe blood transfusion and injection practices, in health-care settings to prevent HIV transmission

¹ Guidelines for HIV/AIDS Interventions in Emergency Settings, IASC, 2003. See www.aidsandemergencies.org

	<ul style="list-style-type: none"> • Support promotion and distribution of male/female condoms • Offer voluntary, and confidential, HIV counselling and testing (VCT) • Ensure early and effective treatment of sexually transmitted infections (STI), including ensuring links between such treatment, VCT services and tuberculosis programmes • Prevent mother-to-child transmission (PMTCT) • Provide evidence-based sexual and reproductive health education in schools and through other means in order to reach out-of-school adolescents • Ensure targeted prevention and care programmes for individuals or groups most at risk
Treatment	<ul style="list-style-type: none"> • Ensure provision of antiretroviral treatment (ART) • Ensure provision of prophylactic and other treatment for opportunistic infections
Care and support	<ul style="list-style-type: none"> • Provide nutritional support for those in need • Organize and support community-based home-care programmes • Provide targeted support to care-givers of those living with HIV, particularly single-female or child-headed households • Ensure family tracing and reunification for unaccompanied or separated children and adequate foster care arrangements for children orphaned by AIDS
Mitigation	<ul style="list-style-type: none"> • Ensure that those living with, at risk of, or otherwise affected by HIV are not discriminated against and are able to exercise their rights • Support information and education activities that aim to dispel misconceptions and counter prejudice, discrimination and social exclusion • Provide training on HIV, human rights and gender to all relevant stakeholders, including national and international actors in the health, social services, law enforcement and humanitarian sectors • Ensure that the land, property and inheritance rights of women and children are respected

4. The role and responsibility of the State

Ensuring equal and effective access to HIV prevention, treatment, care and support is the responsibility of the national authorities. This responsibility flows from the duty of the State to protect, respect and fulfill its human rights obligations, particularly the right to the highest attainable standard of health. States should take all appropriate measures to ensure that such mechanisms are available, accessible, affordable and culturally acceptable to the population, including to internally displaced persons. In addition, States must ensure that their laws, policies and practices on HIV respect human rights and that those living with HIV are not discriminated against, excluded or exposed to violence and abuse. These and other obligations are outlined in greater detail in the *International Guidelines on HIV/AIDS and Human Rights*, which provide valuable guidance to States, civil society and other stakeholders on effective national HIV policies and strategies.

5. The role of human rights and humanitarian actors

Given the significant protection implications of HIV, protection staff and partners have a crucial role to play in ensuring that protection concerns are integrated into the broader multi-sectoral response.



In our work we can ...

Assessment and analysis

(see Part III.1)



- Ensure that attention to HIV is integrated into protection assessments, analysis and response. This will require identifying the causes, contributing factors and consequences of HIV; individuals and groups most at risk; existing coping mechanisms and capacities; gaps in the existing response; and priority areas for intervention.

Advocacy

(see Part IV.3)



- Support the development and implementation of a comprehensive HIV advocacy strategy that promotes respect for the rights of persons living with HIV. This may, for instance, include advocacy aimed at ensuring that national HIV policies and programmes include displaced persons and that they have full and equal access to public services and support, including shelter, food, water and health care, and to humanitarian assistance.
- Train and support relevant stakeholders, such as community leaders, women's groups, youth associations, and networks of people living with HIV, to raise awareness of HIV, combat stigma and discrimination, and promote human rights, including gender equality and universal access to prevention, treatment, care and support.

Information

(see Part IV.6)



- Support awareness raising and information activities that provide evidence-based, yet culturally sensitive, information about HIV, including information about prevention, treatment, care and support, for both women and men of all ages.

Technical expertise and advice

(see Part IV.4)



- Provide advice about the protection implications of HIV to relevant stakeholders, including national authorities, local NGOs, civil society and IDP community leaders. This can, for instance, include advice to national authorities on ways to integrate human rights in national HIV policies and programmes.

Training

- Support training on HIV and human rights for all relevant stakeholders, including government officials, armed forces, law enforcement officials, peacekeeping forces, IDP community leaders, and humanitarian workers. Training for humanitarian workers should also include codes of conduct, particularly regarding sexual violence, exploitation and abuse.

Health care

(see Part V.15)



- Advocate and take other action to ensure that the following health-related services are available, accessible, affordable and provided in a culturally acceptable manner:
 - primary health-care services that address physical, mental, psycho-social and reproductive health;
 - targeted health-care services for rape survivors, including provision of Post-Exposure Prophylaxis (PEP);
 - voluntary counseling and testing programmes;
 - prevention, treatment and care services, including prevention of mother-to-child transmission for people living with HIV; and
 - community-run home-based care and support programmes. Privacy and confidentiality of medical information should be respected at all times.





Education

(see Part V.17)




- Ensure that children living with, at risk of, or otherwise affected by HIV have full and equal access to education, vocational training and recreational activities. Pay particular attention to girls which may have more limited access to education than boys.
- Ensure that education and peer-education activities raise awareness of and provide information about HIV prevention and response. Where possible this should be incorporated into the school curriculum.



Livelihoods <i>(see Part V.16)</i> 	<ul style="list-style-type: none"> • Ensure that those living with HIV and their families have equal access to vocational training and income-generating activities that promote self-reliance, thus providing protection from economic dependency and exploitation, such as forced prostitution and survival sex.
Targeted humanitarian assistance <i>(see Part IV.7)</i> 	<ul style="list-style-type: none"> • Provide targeted material or financial assistance to individuals and families living with or affected by HIV, including in particular single-headed households and households headed by children or older persons. • Support community-based male/female condom promotion and distribution.
Family reunification <i>(see Part V.9)</i> 	<ul style="list-style-type: none"> • Ensure that separated and unaccompanied children are identified and registered, that determinations of the best interests of the child take place, and that they are reunited with their families, if appropriate. In some cases, adequate foster care arrangements might be required.
Land and property <i>(see Part V.11)</i>	<ul style="list-style-type: none"> • Help ensure that the land, property and inheritance rights of women and children are respected.
Durable solutions <i>(see Part VI)</i> 	<ul style="list-style-type: none"> • Advocate to ensure attention to HIV prevention, treatment, care and support in return, relocation, and/or (re)integration programmes run by the government, the UN and other partners. This may include advocacy aimed at ensuring that (former) IDPs living with HIV can continue their treatment and are not discriminated against, regardless of whether they choose to return, relocate or integrate in the area of displacement. This may also require efforts to sensitize the host community or communities in areas of return to the rights and needs of persons living with HIV.
<p>Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org</p>	

6. Key actors and coordination arrangements

Effective HIV prevention and response requires coordinated efforts by a range of actors – local, national, regional and international – with different mandates, expertise and operational capacity. At the field level, HIV response in displacement settings is coordinated jointly by UNHCR and UNAIDS, working closely with all relevant stakeholders. HIV is a cross-cutting issue in the “cluster approach,” meaning it should be integrated and mainstreamed into the work of all clusters and sectors of the humanitarian response (*see Part I.3*).  Key stakeholders include:

- **National:** displaced individuals and communities; networks of persons living with HIV; ministries of health, education and social services; national AIDS commissions and/or programmes; health-care providers; national human rights commission; local NGOs and civil society; religious organizations; and the media.
- **Regional:** an array of initiatives is being undertaken at the regional level such as the Great Lakes Initiative against AIDS and the Asia Pacific Network of People Living with HIV.
- **International:** UNHCR, UNAIDS, WHO, UNFPA, OHCHR, UNICEF, WFP, FAO, World Bank, ILO, IOM, Special Envoy of the Secretary-General for HIV/AIDS in Africa; international NGOs, networks of persons living with HIV/AIDS, and peacekeeping forces.²

² See UN Security Council Resolution S/1308/2000 (2000) on HIV/AIDS and Peacekeepers.

7. Key legal principles and standards

Ensuring that human rights are respected and protected is critical both for reducing exposure to HIV and to mitigating its adverse effects on individuals and communities. International human rights law contains a number of **rights that are of direct relevance to those living with or otherwise affected by HIV**. These include the rights to:³

- | | | |
|---|--|--|
| <ul style="list-style-type: none"> • life, liberty and security of person • non-discrimination, equal protection and equality before the law • freedom of movement • the highest attainable standard of health • an adequate standard of living • equal access to education | <ul style="list-style-type: none"> • privacy • work • freedom of peaceful assembly and association • marry and to found a family • be free from torture and cruel, inhuman or degrading treatment or punishment • to seek and enjoy asylum | <ul style="list-style-type: none"> • freedom of opinion and expression and to freely receive and impart information • social security, assistance and welfare • share in scientific advancement and its benefits • participate in public and cultural life |
|---|--|--|

States have recognized the importance of gender equality, empowerment and participation of **women and girls** in all aspects of HIV prevention and response.⁴ In particular, gender-specific protection risks must be adequately addressed and special attention paid to the health needs of women and girls, including ensuring access to reproductive health care and services, and appropriate counselling and treatment in all cases of sexual and gender-based violence.

Children are entitled to special protection under the law, as highlighted by the UN Committee on the Rights of the Child in its General Comment on HIV/AIDS and the rights of children.⁵ In particular, the general principles of the Convention on the Rights of the Child – including non-discrimination (Art. 2), best interests of the child (Art. 3), the right to life, survival and development (Art. 6), and participation of the child (Art. 12) – should guide the response in all cases involving children. Other important rights include the rights to:

- | | |
|---|---|
| <ul style="list-style-type: none"> • the highest attainable standard of health and health care • access information and material aimed at the promotion of their social, spiritual and moral well-being and physical and mental health • preventive health care, sex education and family planning education and services • an adequate standard of living • not to be separated from parents right to privacy • be protected from violence • special protection and assistance by the State | <ul style="list-style-type: none"> • rights of children with disabilities • social security, including social insurance • education and leisure • be protected from economic and sexual exploitation and abuse, and from illicit use of narcotic drugs • be protected from abduction, sale and trafficking as well as torture or other cruel, inhuman or degrading treatment or punishment • physical and psychological recovery and social reintegration |
|---|---|

The rights of persons living with or affected by HIV are sometimes limited or restricted based on purported public health concerns. Such measures, which have included deprivation of liberty, denial of access to public services, and mandatory HIV testing, are unlawful and in violation of basic human rights. In addition, such measures are rarely effective in dealing with HIV, which is not casually transmitted. In fact, such measures may be counter-productive and may discourage people from undergoing voluntary testing or accessing prevention, care and support programmes.



³ Based on the *International Guidelines on HIV/AIDS and Human Rights* (OHCHR/UNAIDS, 2006, p. 80-103) and *General Comment No. 3* (2003) of the UN Committee on the Rights of the Child (CRC/GC/2003/3), para. 6. See also Principle 19(3) of the *Guiding Principles on Internal Displacement*. For further discussion see also *Note on HIV/AIDS and the Protection of Refugees, IDPs, and Other Persons of Concern*, UNHCR, 2006.

⁴ *Declaration of Commitment on HIV/AIDS* (General Assembly Resolution A/RES/S-26/2 of 2 Aug 2001), paras. 14, 37, 58–62. See also Principle 19(2) of the *Guiding Principles on Internal Displacement*.

⁵ HIV/AIDS and the Rights of Children, *General Comment No. 3* (2003) of the UN Committee on the Rights of the Child (CRC/GC/2003/3), in particular paras. 5 and 6.



Resources

(available from www.refworld.org unless otherwise stated)

Tools and guidelines

- *Guidelines for HIV/AIDS Interventions in Emergency Settings*, IASC, 2003. www.aidsandemergencies.org
- *International Guidelines on HIV/AIDS and Human Rights: Consolidated Version*, OHCHR/UNAIDS, 2006.
- *Practical Guidelines for Intensifying HIV Prevention*, UNAIDS, 2007.
- *Strategies to Support the HIV-related Needs of Refugees and Host Populations*, UNAIDS/UNHCR, 2005.
- *HIV and IDP Assessment Tool*, UNHCR/UNAIDS, 2007.

Further reading

- *HIV/AIDS and the Rights of Children*, General Comment No. 3(2003) of the UN Committee on the Rights of the Child, CRC/GC/2003/3. www.ohchr.org/english/bodies/crc/comments.htm
- *Framework for the Protection, Care and Support of Orphans and Vulnerable Children Living in a World with HIV and AIDS*, UNICEF, 2004. www.unicef.org/aids/index_documents.html
- *Enhanced Protection for Children Affected by AIDS*, UNICEF, 2007 www.unicef.org/publications/index_39192.html
- *Educational responses to HIV and AIDS for Refugees and Internally Displaced Persons: Discussion Paper for Decision-makers*, UNESCO/UNHCR, 2007.
- *Gender and HIV/AIDS: Resource Pack*, WHO, 2005.
- *HIV and Conflict: A Double Emergency*, International Save the Children Alliance, 2002.
- *HIV/AIDS and Children Affected by Armed Conflict* (fact sheet), UNICEF, 2002.
- *HIV/AIDS and Internally Displaced Persons in Eight Priority Countries*, UNHCR/OCHA-IDD, 2005.
- *HIV-Related Stigma, Discrimination and Human Rights Violations: Case Studies of Successful Programmes*, UNAIDS, 2007.
- *Note on HIV/AIDS and the Protection of Refugees, IDPs, and Other Persons of Concern*, UNHCR, 2006.



Useful websites

- Joint United Nations Programme on HIV/AIDS (UNAIDS): www.unaids.org
- Global Coalition on Women and AIDS: www.womenandaids.unaids.org
- UNHCR: www.unhcr.org/hiv-aids
- UNICEF: www.unicef.org/aids
- UNFPA: www.unfpa.org/hiv/index.htm
- UNIFEM: www.genderandaids.org
- WHO: www.who.int/topics/hiv_infections/en/
- OHCHR: www.ohchr.org/english/issues/hiv/index.htm
- FAO: www.fao.org/hivaids
- IOM: www.iom.int

Key Principles

Relating to HIV Prevention, Response, Care and Support in the Context of Internal Displacement

- **Non-discrimination, equal protection and equality before the law**

Persons living with or otherwise affected by HIV/AIDS are entitled to full respect for their human rights without discrimination of any kind. Human rights law prohibits discrimination on a number of grounds, including on the basis of “other status,” such as health status, including HIV/AIDS. Misconceptions that IDPs are associated with an increased prevalence of HIV might lead to discriminatory practices and should be dispelled.

- **Access to HIV and AIDS health care**

The right to the highest attainable standard of health includes non-discriminatory access to HIV and AIDS prevention, treatment, care and support, including psycho-social support. This includes access to voluntary (and confidential) HIV counseling and testing (VCT); antiretroviral therapy (ART); protection from mother-to-child transmission; and access to reproductive health care, including appropriate pre-natal, delivery and post-natal care.

- **Protection from arbitrary detention and unlawful restrictions on movement**

There is no public health justification for depriving liberty or restricting movement, including forced return or relocation, solely on the basis of actual or suspected HIV status. Such measures are not only ineffective, as HIV is not casually transmitted, but are also likely to be discriminatory and violate the rights to liberty and security, and freedom of movement.

- **Respect for confidentiality and privacy**

Personal data, including data on health status, is confidential and should not be shared without the prior informed consent of the individual concerned. Ensuring confidentiality is the responsibility of all those that have access to such information. Informed consent requires that individuals clearly understand what information will be shared, with whom, for what purposes, and what the potential consequences may be.

- **Freedom from mandatory testing**

There is no public health justification for mandatory HIV screening. Mandatory testing violates the rights to privacy, personal integrity and security. It is also ineffective and does not prevent the occurrence or spread of HIV. Public health interests are best served by voluntary counseling and testing in an environment where confidentiality and privacy is respected.

- **HIV/AIDS-related needs of women, girls and boys**

Women and children are disproportionately affected by HIV and AIDS. Appropriate measures should be taken to address the particular protection problems they face, including the risk of rape, sexual violence and exploitation, social exclusion and discrimination, and violations of a number of other rights, including access to health care, property and education.

- **Access to HIV/AIDS information and education**

The right to the highest attainable standards of health and health care includes access not only to HIV treatment, but also to HIV-related information and education, and to information about sexual and reproductive health. The rights to education and to seek, receive and impart information guarantee access to life-saving information. For children, such information must be relevant, appropriate, and timely and presented in a manner appropriate for their age.

- **Access to durable solutions**

Access to and the choice of a durable solution to internal displacement should not be adversely affected by positive HIV status. Persons living with HIV and their families should be able to decide, freely and in safety, whether to return, integrate in the place of displacement, or settle elsewhere in the country. They should have full and equal access to HIV prevention, treatment, care and support regardless of their choice of a durable solution.

Health



Key Message


Everyone has the right to the highest attainable standard of physical and mental health. This includes not only the right to timely and appropriate health care but also to the underlying determinants of health, such as access to adequate food, water, a sustainable livelihood, shelter and sanitation. Responding to the health needs of a displaced population requires a multi-sectoral response that takes due account of the inter-linkages between health and protection.

1. Health and protection in the context of internal displacement

The conditions that characterize forced displacement can have a profound impact upon the health and well-being of individuals and communities. Conflict, displacement and other violations of human rights, combined with lack of access to adequate shelter, sanitation, food and safe water, can seriously undermine people's ability to prevent and respond to health-related risks in their environment.

Health-related factors, such as disease, disability and malnutrition brought on by displacement, often claim more lives and cause greater suffering than the conflict itself.

Internally displaced persons face a variety of **risks to their health and well-being** both during displacement and upon return or resettlement.

- **Physical health:** Physical violence, combined with poverty and marginalization and lack of access to shelter, sanitation, food and water, can result in death, disease, disability, injury or trauma. Diseases that previously have been brought under control, such as measles, diarrhea, malaria and acute respiratory infections, can also become major epidemics as a result of displacement, particularly in crowded camp environments.
- **Mental health:** Exposure to violence, separation from family members, and the loss of homes and livelihoods, can give rise to a number of psycho-social related problems, such as post-traumatic stress disorders, psychosomatic illness, depression and anxiety, which can destroy a person's quality of life and diminish resistance to disease. Such factors can also contribute to a change in behaviour, including increased substance abuse, aggression, and higher levels of sexual and domestic violence (see Part IV.11). 
- **Sexual and reproductive health:** Reproductive health problems are a leading cause of death and illness among women and girls worldwide. Such problems are often compounded during displacement because of limited access to health care, erosion of

What is health?

Health is generally defined as a state of complete physical, mental and social well being and not merely the absence of disease or infirmity.

Constitution of the WHO

Is there a link between health and human rights?


A strong link binds health and human rights:

- Violations or lack of attention to human rights can have serious health consequences;
- Health policies and programmes and the ways in which they are implemented can promote or violate human rights;
- Vulnerability and the impact of ill health can be reduced by taking steps to respect, protect and fulfill human rights.

25 Questions & Answers on Human Rights
WHO, 2002

traditional health practices, and exposure to violence, exploitation and abuse. This may lead to a rise in maternal and infant mortality, still births, and low birth weight. Sexual violence, in particular, which often increases during displacement, can have tragic consequences for women and girls. This includes health problems associated with forced and early pregnancies, unsafe abortions, obstructed labour, sterility, incontinence, vaginal fistulas¹ and sexually transmitted infections (*see also Part V.4*).

Health-related risks are often compounded by **lack of or limited access to health-care facilities, services and supplies, including medicines**, during displacement. In many cases, internally displaced persons cannot obtain timely and adequate health care:

- **Availability** – Displaced persons often live in poor urban areas, rural areas or crowded camps, where health care is absent, the infrastructure has been damaged, or health care workers have been wounded or displaced. Where basic health care is available it may be incomplete, for instance not include vaccinations, reproductive health care or psycho-social support.
- **Accessibility** – Displaced persons may not be able to access available health care for a number of reasons, including discrimination, high user fees, insecure environments, long distances, or lack of affordable transport. Older persons, as well as women and girls, also face additional obstacles in accessing health care. Their ability to travel may be limited, for instance because cultural norms prohibit them from travelling alone or from being treated by a male doctor. Survivors of sexual violence may also be reluctant to seek help because of fear of humiliation, stigmatization, or risk of further violence, arrest or detention (*see Part V.4*). 
- **Affordability** – Displaced persons may lack the resources necessary to pay for health care and medication. In some cases, this leaves them vulnerable to extortion or exploitation, including forced prostitution or survival sex in exchange for medical assistance.
- **Acceptability** – Cultural and religious norms and practices have an influence on people's perception of health and health care must thus be provided in a culturally acceptable way in order to be effective. In addition, health-related information must be provided in a manner and in a language that the displaced population can understand.
- **Quality** – Ensuring that minimum standards are maintained in health services² during emergencies can be challenging because of a lack of qualified staff, lack of knowledge or understanding of displacement-related health risks and the health profile of the displaced population, or lack of respect for human rights, such as the right to privacy and confidentiality during all stages of treatment.

2. Individuals and groups at particular risk

Health-related risks impact people in different ways depending on a range of factors, including age and gender. As an example, young children and older persons are generally more vulnerable to disease than adults and may face additional difficulty in accessing health care. Pregnancy and child-birth, as well as exposure to harmful traditional practices or sexual violence, also pose unique challenges for women and girls. Persons living with disability or serious illness, such as HIV or AIDS, may also need special attention and care.

¹ Fistula occurs when the wall between the vagina and the bladder or bowel is ruptured. It can result in incontinence, severe infections and loss of control of bladder or bowel functions, which may lead to social stigma and isolation of those affected. Fistula often occurs as a result of rape or obstructed labour, in particular when associated with early pregnancy. Fistula can be repaired through surgery.

² These are described in detail in Chapter 5 on Minimum Standards in Health Services in the Sphere Handbook: Humanitarian Charter and Minimum Standards in Disaster Response, Sphere Project, 2004.

Such needs are often overlooked or remain unaddressed because of lack of understanding or discrimination. It is important that differential risks and needs are assessed and taken into account when planning and implementing health-related projects.

3. The responsibility of the State

National authorities carry primary responsibility for ensuring the highest attainable standard of health for everyone within their jurisdiction, including internally displaced persons. This obligation requires States to take progressive steps, to the maximum of their available resources, towards the full realization of the right to health by all appropriate means, including legislative, administrative, financial, educational and social. In particular, national authorities must aim to ensure that health-care facilities, services and supplies are available, accessible, culturally acceptable, and of good quality.

These obligations are outlined in greater detail in a **General Comment** on the right to the highest attainable standard of health, issued by the UN Committee on Social, Economic and Cultural Rights.³

4. The role of human rights and humanitarian actors

At the global level, coordination of the humanitarian response to health is primarily the responsibility of the Global Health Cluster, which is led by the World Health Organization. Given the close inter-linkages between health and human rights, it is important that protection staff and partners work with colleagues from the health sector to ensure that the right to health is respected and that a human rights perspective is integrated into all prevention and response programming.



IN OUR WORK WE CAN ...

Assessment and analysis

(see Part III.1)



- Ensure that protection assessments and analysis take into account the extent to which people are able to enjoy their right to health and the underlying determinants of health; the health impact of human rights violations; and any protection concerns that arise as a result of ill health.

Coordination

- Establish a focal point for health and coordinate closely with other sectors/clusters, such as shelter, food, nutrition and water/sanitation/hygiene, in order to ensure that health-related protection concerns are understood and addressed.

Advocacy

(see Part IV.3)



- Advocate with local and national authorities to ensure that health policies and programmes respect, protect and aim to fulfill the right to the highest attainable standard of health. This includes ensuring that everyone, including internally displaced persons, has access to appropriate health care and medication. In particular, reproductive health care must be available for women and girls, including for survivors of sexual violence.

Community mobilization




(see Part IV.10)



- Support cultural, social or religious activities and practices that play a role in safeguarding health. This might, for instance, include traditional cleansing and healing practices that help people to overcome grief or trauma.
- Involve displaced communities, both men and women, in assessments, planning and implementation of projects. Community leaders, women's groups and youth associations can also play an important role in disseminating information and educating their peers about prevention and treatment of disease and other health risks.

³ General Comment 14(2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, E/C/12/2000/4. Available from www.ohchr.org/english/bodies/cescr/comments.htm.



Information (see Part IV.6) 	<ul style="list-style-type: none"> • Work together with colleagues from relevant sectors/clusters to inform the internally displaced, host communities, and local and national authorities, about the right to health and the link between health and human rights. Such activities could include information on the availability and location of health-care services, general practices of good health, including sexual and reproductive health, and ways to reduce various health risks, such as sexual violence.
Education (see Part V.17) 	<ul style="list-style-type: none"> • Advocate for health-related information being included in school curricula and other educational or vocational training programmes. This may include information about the link between health and human rights, about hygiene, adequate nutrition, and sexual and reproductive health.
Training	<ul style="list-style-type: none"> • Support training in human rights, and on the inter-linkages between rights and health, to health professionals and relevant authorities. This could, for instance, include information about the right to health and about the rights to privacy and confidentiality. • Support training in both human rights and basic health care for traditional practitioners, including traditional healers, traditional birth attendants (TBAs), and practitioners of female genital mutilation.
Material assistance (see part IV.7) 	<ul style="list-style-type: none"> • Provide targeted assistance to individuals that cannot pay for necessary health care or medication as well as those that face particular risks. This might, for example, include young mothers, older persons, survivors (or those at risk of) sexual violence, single-headed households, separated and unaccompanied children, and persons living with HIV/AIDS. • Provide financial or material assistance to relevant authorities to assist them in integrating a human rights perspective into their health policies and programmes. This might, for instance, include provision of office or medical equipment, or vehicles or fuel to access remote camps, or to enable emergency referrals for survivors of sexual violence.

Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org

5. Key legal principles

International human rights law guarantees everyone the right to the highest attainable standard of physical and mental health. This includes not only the right to equal access to timely and appropriate health care but also a wide range of socio-economic factors and the underlying determinants of health, such as access to food, shelter, safe water and sanitation, safe working conditions and a healthy environment, and access to health-related education and information, including on sexual and reproductive health.⁴

Guiding Principle 19 (see Annex 1)

1. *All wounded and sick internally displaced persons as well as those with disabilities shall receive ... the medical care and attention they require, without distinction on any grounds other than medical one ... [including] psychological and social services.*
2. *Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counseling for victims of sexual and other abuses.*
3. *Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS ...*

⁴ See e.g. Art. 25(1) of UDHR; Arts. 10(2), 11 and 12 of ICESCR; Arts. 23(3), 24, 39 of CRC; Art. 5 (e)(iv) of ICERD; and Arts. 10(h), 11(1)(f) and 12, 14(2)(b) and 16(e) of CEDAW. For further discussion see General Comment 14(2000) of the Committee on Economic, Social and Cultural Rights on the right to the highest attainable standard of health, E/C/12/2000/4.

The right to health is also closely related to and dependent upon the realization of **other human rights**, including the rights to non-discrimination and equality, to respect for one's privacy during consultations, examinations and care (including confidentiality of medical information), and to freedom of movement. The right to freedom from torture or cruel, inhuman or degrading treatment or punishment also includes the right not to be subjected to harmful traditional practices, such as female genital mutilation, or forced medical treatment, such as sterilization or mandatory testing, or experimentation.

In this context, the term "health" includes not only physical but also **mental and reproductive health**. Reproductive health rights, for instance, require that women as well as men have access to sexual education and information about family-planning methods and services, and that they can decide freely on the number and spacing of their children. It also requires that women have access to appropriate health-care services for pre-natal, delivery, and post-natal care, and measures to diminish maternal, child and infant morbidity and mortality.

Since **women and girls** have an equal right with men and boys to all aspects of health and well-being, their gender-specific needs, such as the need for reproductive health care, and risks, such as sexual violence and harmful traditional practices, should always be considered.

International humanitarian law provides extensive protection to the sick and wounded as well as to health workers and other humanitarian personnel, hospitals, medical equipment, medical units and transportation.⁵ In particular, the sick and wounded must be collected, protected against ill treatment and receive, to the fullest extent practicable and with the least possible delay, the needed medical care and attention, without any distinction except on medical grounds.



Key References

- *25 Questions and Answers on Health and Human Rights*, WHO, 2002. www.refworld.org
- *Gender Handbook for Humanitarian Action: Women, Girls, Boys and Men: Different Needs, Equal Opportunities*, Chapter XX (Health), Inter-agency Standing Committee, 2007. www.humanitarianinfo.org/iasc/gender
- *Handbook for Emergencies*, Chapter 14 (Health), UNHCR, 3rd ed., 2006. www.refworld.org
- *Reproductive Health in Refugee Situations: An Inter-agency Field Manual*, UNHCR, 1999: www.refworld.org
- The Right to the Highest Attainable Standard of Health, General Comment No. 14 (2000) of the Committee on Economic, Social and Cultural Rights, E/C.12/2000/4. www.ohchr.org/english/bodies/cescr/comments.htm
- Sphere Handbook: Humanitarian Charter and Minimum Standards in Disaster Response, Chapter 5 (Minimum Standards in Health Services), Sphere Project, 2004. www.refworld.org
- Guidelines for Gender-based Violence Interventions in Humanitarian Settings: Focusing on Prevention of and Response to Sexual Violence in Emergencies, IASC, 2005. http://www.humanitarianinfo.org/iasc/content/subsidi/tf_gender/gbv.asp.
- *Clinical Management of Survivors of Rape: Developing Protocols for Use with Refugees and Internally Displaced Persons*, WHO/UNHCR, rev. ed. 2004.
- Guidelines for HIV/AIDS Interventions in Emergency Settings, IASC, 2003. www.aidsandemergencies.org

⁵ This is a customary principle of IHL. See also Common Art. 3 of the Geneva Conventions; Arts. 16-23 of the Fourth Geneva Convention; Arts. 10-18 and 75(2)(a) of Additional Protocol I; and Arts. 4(2)(a), 5(1)(a), 5(2)(e) and (d), 7-12 of Additional Protocol II.



Useful websites

- Global Health Cluster: www.humanitarianreform.org
- World Health Organization (WHO) www.who.int
- United Nations High Commissioner for Refugees (UNHCR): www.unhcr.org
- United Nations Children Fund (UNICEF): www.unicef.org
- United Nations Population Fund (UNFPA): www.unfpa.org
- International Committee of the Red Cross (ICRC): www.icrc.org
- Physicians for Human Rights: <http://physiciansforhumanrights.org>

Livelihoods



Key message

Everyone has the right to a livelihood. For displaced persons, the loss of livelihood might engender a number of protection risks, as it affects the psycho-social well-being of individuals by lowering self-esteem. Generating income during displacement not only improves the quality of life for individuals; it helps avoid protracted dependency and exposure to further discrimination and abuse.

Although livelihood programmes, as such, may not be sustainable, they should aim to sustain livelihoods in both the short term to save lives and the long term to build resilience and address vulnerability

1. What are sustainable livelihoods?

Livelihood refers to the capabilities, assets and strategies that people use to make a living, i.e. to secure food and income through a variety of economic activities. A **sustainable** livelihood is one that enables a person to²

- Cope with and recover from stress and shocks,
- Maintain or enhance his/her capabilities and assets,
- Provide sustainable livelihood opportunities for the next generation,
- Contribute net benefits to the community in which he/she lives.

To achieve these objectives, livelihood programmes cover a range of issues including community mobilization, development of leadership skills, non-formal education, vocational training and skills-training programmes, income-generating activities, food or cash-for-work programmes, apprenticeship placement projects, micro-finance schemes, agriculture programmes, business start-up programmes, seeds and tools projects, animal husbandry projects and self-employment and job-placement programmes.³

2. The disruption of livelihoods in the context of internal displacement


When displaced persons can no longer rely on known ways of generating income, they have difficulty to adjust to new markets, learn new skills and fully integrate with surrounding communities. This situation triggers a larger number of protection risks, which may seriously affect many aspects of an individual's life and the life of the host community in a variety of ways, such as:

- The disruption of livelihoods might aggravate **the trauma and stress** already caused by conflict or disaster. Prolonged humanitarian assistance will make it more **difficult to become self-reliant**. The earlier livelihood interventions take place, the easier it will be for displaced persons to regain their self-esteem and their ability to be self-reliant. Close cooperation between psycho-social services and livelihood-support organizations is important in ensuring an innovative approach to each intervention (see Part IV.11).

¹ Adapted from Livelihoods Connect, *Creating Sustainable Livelihoods to Eliminate Poverty*, Institute of Development Studies, 2007.

² Longley, C. and Maxwell, D. "*Livelihoods, Chronic Conflict and Humanitarian Response: A Synthesis of Current Practice*," Overseas Development Institute, London, UK, 2003.

³ *Women, Girls, Boys and Men, Different Needs Equal opportunities*, IASC, Gender Handbook in Humanitarian Action, December 2006.

- The lack of livelihood can also trigger **family separation**, with parents having to leave their children or older relatives behind to find work. **Children might have to abandon their schooling** to contribute to their families' income.
- **Sexual abuse and gender-based violence** is often a grim consequence of the lack of sustainable livelihoods, affecting particularly displaced women, girls and boys who might be forced to provide sex in exchange for food and basic supplies.
- In some displaced societies, **men may find themselves unable to play their traditional role** of “breadwinner”, as gender roles might have been re-defined during displacement. This can lead to loss of self-esteem, abuse of alcohol or drugs and increased domestic violence.
- **Surrounding communities might perceive the presence of displaced persons as a threat** to their already scarce resources, leading to discrimination and exclusion, particularly in regard to the labour market.
- **Interventions that focus only on identifying sustainable livelihoods for IDPs may create tension with host population** and negatively affect the ability of displaced persons to find durable solutions. Livelihood interventions for the host communities, when they face similar constraints, can contribute to peaceful coexistence and ensure that the livelihood strategies intended for internally displaced persons are sustainable.
- **Authorities might view livelihood interventions as a way of consolidating a specific durable solution and hampering others.** For instance, a government trying to facilitate the return of displaced persons might be concerned that livelihood support in areas of displacement might promote local integration and discourage return. A dialogue with the government can help reach the understanding that the promotion of self-reliance should be seen as the precursor to any of the three durable solutions (return, local integration or resettlement) (see Part VI). 

3. The role and responsibility of the State

The government and public service providers have primary responsibility for ensuring that the environment is conducive to achieving self-reliance. Displaced persons, however, often face considerably more obstacles than other civilians in achieving sustainable livelihoods because of the loss of their own assets and strategies, disputes over lost land and property, and the breakdown of their previous socio-economic support networks. This requires the State to take specific actions to support displaced persons in developing sustainable livelihoods during and immediately after their displacement. These include:

- Ensuring non-discriminatory access to public services, such as health, education, social welfare and housing loans to secure a stable and dignified environment so that displaced persons can become self-reliant.
- Developing an appropriate legal and administrative framework to enable displaced persons to have access to the labour market while taking into account their specific needs, including recognition of academic and professional credentials, non-discriminatory job-recruitment policies and psycho-social support.
- Respecting and promoting freedom of movement of displaced persons for economic purposes.
- Integrating the development of IDP livelihoods into national development programmes and poverty-reduction strategies.
- Securing all areas related to livelihoods and strengthening the rule of law to protect the assets and activities of displaced persons in their attempts to become self-reliant.

4. The role of human rights and humanitarian actors: the protection response

When there is a crisis, the international community tends to mobilize its efforts and resources to respond to the most urgent needs (food, water, shelter, health) of displaced and other affected populations. Livelihood interventions are broadly regarded as pertaining to the post-emergency phase. However, after the first year of displacement, when the international attention has been moved to a new crisis, many displaced persons still find themselves dependent on a rapidly decreasing amount of assistance and with few opportunities for sustainable livelihoods.

Early involvement by reintegration and development actors and joint programming between them and protection agencies is vital for maximizing the protection impact of humanitarian interventions. The Protection Cluster/sector or working group needs to work closely with the Early Recovery and the Agriculture Clusters, and with other relevant clusters/sectors, to develop a joint approach to development, humanitarian assistance and generic protection interventions. Livelihood interventions should thus be part of a multifaceted strategy to further the realization of legal, social, cultural and economic rights of the displaced and other affected populations.



In our work we can...

1. Assessment (see Part III.1)



Through a joint assessment exercise:

- Identify **pre-displacement household livelihood strategies** and economic and traditional roles, particularly with regard to the control of resources and assets, mobility, access to markets and access to and administration of resources. A thorough understanding of how income used to be generated will help ensure that livelihood interventions promote gender equality and the maximum use of existing resources within the community.
- Identify, through participatory assessments, the skills and capacities as well as the **economic coping strategies during displacement**, focusing on various age and gender groups. Ensure that the results inform the design of livelihood projects and build on existing coping strategies specific to each group. What may be appropriate for demobilized combatants, for example, might not be appropriate for female heads-of-households or older persons.
- Be sensitive to **skills and activities that might be unproductive** or even seen as undesirable from different perspectives (i.e. undignified, discriminatory, unsustainable, overloading of local market, lack of markets for products produced).
- Assess the livelihood situation of all groups in the **local community**. The results of this assessment should be used to identify areas of intervention among the most affected populations. Commission an **analysis of the local market** to identify local production, workforce and services in the public and private sectors.
- Identify instances of **discrimination in accessing vital natural resources**, such as water, firewood or land, and try to understand the reasons (whether economic, political, or other) and its impact on displaced persons' access to livelihoods.
- Consult with displaced persons to identify the **barriers** they face in accessing **national programmes** that give access to greater livelihood opportunities, such as micro-finance institutions, housing loans, etc.

2. Coordination and partnerships

- Promote **practical exchange of knowledge** and experiences among human rights/protection staff involved in livelihood programmes to ensure protection aspects are integrated into programming and delivery of livelihood interventions. ➔

- Liaise with agencies promoting self-reliance, livelihood and development to ensure that **livelihood-support programmes are launched from the outset of displacement** along with food aid and other emergency interventions.
- Within the **Early Recovery clusters or sectors, ensure cooperation** between humanitarian agencies and national and local public institutions to develop a common livelihood strategy and to ensure inclusion of livelihood programmes for IDPs in national poverty-reduction strategies.
- Advocate for **livelihood projects that promote peaceful coexistence**, reconciliation and conflict prevention, such as by setting up vocational training centres benefiting both IDPs and surrounding communities.
- Promote close cooperation of **psycho-social and health institutions** with employment and income-generation projects to strengthen the link between trauma recovery and self-reliance.
- Where feasible, mediate for the **incorporation of IDP leadership and associations** into existing local structures, such as municipalities or unions, to support economic and social integration.

3. Protection monitoring and reporting (see Part IV.1)



- Monitor **instances of discrimination against IDPs in accessing public support schemes**, such as credit schemes and agricultural programmes. Ensure that discriminatory policies and procedures are reported and addressed by the relevant actors, including national authorities, local unions, and development and humanitarian actors.
- Monitor the **security aspects** that affect the sustainability of livelihoods in IDP and other affected communities, such as freedom of movement for economic purposes, arbitrary detention, the presence of mines in agricultural fields and roads and local markets (see Parts V.3 to 6).
- Identify **instances of child labour** and ensure adequate livelihood support to families with the aim of eradicating such practices. Refer cases of children performing work that may be hazardous or harmful to their development and growth to specialized organizations so they can be immediately removed from dangerous environments.
- Monitor possible **increase in local commercial sex work** (women and girls selling sex for their survival) and identify any possible links with the increase of internally displaced persons and their lack of alternative and dignified livelihoods. Identify exploitative and trafficking networks and ensure that national mechanisms for protecting victims of trafficking and exploitation are activated (see Part V.7).
- Closely monitor criteria and procedures for accessing livelihood support programmes and micro-finance schemes, particularly to **identify instances of economic and sexual exploitation**, including by humanitarian workers involved in implementing these programmes.
- Monitor the **viability of IDP settlements** to ensure that they allow for the achievement of sustainable livelihoods. This should take into account the economic situation in the area, affordable housing or the possibility of building new houses, access to land and markets, attitudes of the host community and availability and access to services. If in-depth monitoring leads to the conclusion that a certain settlement is not viable, ensure that local authorities are engaged in finding alternative solutions (see Parts IV.12 and V.13).
- Monitor whether or not **procedures for recognizing educational or professional qualifications of IDPs** and other affected populations who lost their documentation are in place and, if so, whether they are simple, transparent and effective.

4. Community participation and mobilization (see Part IV.10)



- Identify existing **community-level traditional support mechanisms**, formal and informal leadership structures, self-help groups, management committees, community-run care facilities and social clubs that can be supported by the international community to maximize their capacity. This is particularly important in situations of **urban displacement** or rural dispersion, where it is difficult to identify and reach IDPs directly.
- Support **existing local and traditional livelihood strategies in host communities** and promote the participation of IDPs in their structures, such as in traditional group-based micro-finance, small holders associations, producers associations and market committees.
- Ensure **differentiated livelihood support strategies** to address the specific needs of IDPs and members of the host community, depending on the particular protection risks they face. Make sure that IDPs participate in the design and development of these strategies. Be aware of:
 - **Persons with disabilities**, including those with disabilities resulting from trauma and/or conflict-related injuries, who may require specific support to identify suitable employment opportunities.
 - **Single heads-of-households** who might require additional support to access self-reliance activities through community-based day-care centres where they can leave their children while they go to work.
 - **Youth** (above 18 years old) **formerly associated with armed groups** who require dedicated support for their reintegration into civilian life. Generating youth employment is vital for providing an alternative to warfare as a mean for living.⁴ Disarmament, demobilization and reintegration programmes should be promoted.
 - **Ethnic minorities** who are often exposed to increased levels of discrimination, including by displaced communities. Supporting the development of a certain skill or area of work can lead to improved social status in the society.
 - Groups or individuals who prefer to remain in **hiding** close to their areas of origin will require tailored income-generation support that can be undertaken from their hidden locations while ensuring that their products can reach local markets.
- Assist in the **organizational development of IDP community groups** and associations that include members of the host community. This will enable IDPs to assume an active role in their new community and provide valuable services to others. IDPs' efforts to reconstruct their livelihoods greatly depend on the reconstruction of such community-support networks.

5. Skills development and (re) training

- Support livelihood programmes that help develop **skills that match local market needs**. Target however the less saturated areas of the local market, which may also help prevent possible tensions between the displaced and host communities.
- As far as possible, work to **overcome traditional gender patterns for division of labour**, thereby ensuring that women and men have access to non-traditional professions, such as women working in construction as carpenters, plumbers or accountants.
- Focus skill development and **re-training programmes** on activities that do not require using the host areas' limited natural resources as a way of facilitating reconciliation.
- Support the implementation of **quick orientation programmes** for groups or individuals with specific needs, such as persons who are illiterate, prior to skills-training programmes to ensure that they can participate.

⁴ This can be done by, for instance, including youth in reconstruction and rebuilding projects, such as restoration of vital transportation routes or health and education facilities.



- Support and encourage the design and implementation of **two-phase skills and vocational training activities** that allow participants to ‘graduate’ from the training and have access to a start-up grant or loan to facilitate links between the skills acquired and self-reliance.
- Promote **re-certification and re-credentialing programmes** in situations where IDPs already have the necessary skills to match local market needs, but do not have professional or academic certification due to lack or loss of documentation.

6. Legal aid, counselling and human rights advocacy (see Part IV.5 and IV.3)



- Provide **legal aid and legal counselling to IDPs and national actors to overcome and eradicate instances of discrimination** concerning livelihoods. Often, this includes:
 - Providing technical advice for the establishment of an adequate legal and administrative framework for local institutions.
 - Supporting and advocating for the development of concrete measures allowing IDPs’ access to opportunities and services on a comparable basis to those in the surrounding communities.
 - Through advocacy with local authorities and training of IDPs, facilitate women’s access to documentation, education, health services, social assistance programmes, and employment and property rights.
 - **Provide** training materials and programmes to staff of relevant ministries, local health and education providers and local social assistance offices to promote better understanding and knowledge of these rights.
 - Promote the inclusion of a **“fair and non-discriminatory treatment clause” in the Code of Conduct** of national civil servants and high standards of conduct in job descriptions.
- Support IDPs in **accessing natural and productive resources and assets** to re-build their livelihoods. Oversee restitution and compensation mechanisms in cases of land disputes. (see Part V.10)
- In situations where stealing of livestock has been widespread, support the establishment of a system for the restitution of the livestock that will contribute to the local reconciliation process.
- Promote **mechanisms to ease administrative procedures for IDPs to access employment** in the public and private sectors. Ensure an appropriate balance between emphasizing the specific needs and the equal rights of IDPs to avoid undue categorization or marginalization.
- Advocate for State support for the **recognition of academic and professional titles** and certification, particularly of individuals who lost their documents during flight and violence. Promote technical guidance for recognition procedures, if required (see Part V.1)
- Advocate for the clear regulation and respect of **labour rights**. Advocate for the development of national institutions that can support “decent work conditions,” such as cooperatives, unions, administrative tribunals, labour courts, and social insurance bodies. **Unions and cooperatives** are particularly strong public actors that seek to uphold the socio-economic rights of their workers/employees. As such, they can often become highly effective advocates for IDPs and other affected communities.
- Promote **“life skills” support programmes** in conflict-resolution, negotiation, peaceful coexistence.
- Promote rapid and well-conceived **income-generation support immediately following displacement** to help restore human dignity and help people avoid illegal or unsustainable strategies.



7. Material, technical or financial assistance

(see Part IV.4)



- Work with relevant clusters and sectors for **multi-dimensional projects** covering all required services, including housing, health, employment, because livelihood needs are interlinked.
- Ensure that **material and financial assistance** for livelihood opportunities also involve and target individuals or groups with **specific needs in host communities** to avoid creating tension between IDPs and surrounding communities.
- “Mainstream” as many livelihood projects as possible into State services through specific coordination and hand-over structures
- Advocate with relief and development agencies for the implementation of projects aimed at **strengthening the absorption capacity of host communities** by investing in and/or upgrading infrastructure, community services and the local economy.
- Support the development of sustainable assistance and community-support projects to assist **IDP and other affected communities to care for older persons, persons with disabilities** or other members of the community with specific needs in order to fill the gaps left by the disruption of family-based economies and care structures that existed prior to displacement.
- Support national and international efforts to create employment and development **opportunities for all in places of return or new settlement**, regardless of gender, ethnicity, etc.
- Agree with all stakeholders, including IDPs, on clear, transparent and protection-oriented **criteria for phasing out** assistance and livelihoods programmes that will be handed over to long-term development programmes. Material and financial aid for livelihood programmes should continue until IDP livelihoods are self-sustaining or until support through national institutions is available and sustainable.

8. Evaluation and monitoring

(see Part III.3)



- Develop and agree with relevant partners on **benchmarks for self-reliance** in a given displacement situation. IDPs and the other affected communities should be closely consulted in order to arrive at criteria that are relevant, realistic, specific and measurable within a given period. Use these criteria to measure progress of humanitarian and early recovery interventions.
- Take part in debriefings following programme evaluations and use monitoring reports to follow up on identified **protection concerns** that threaten the effectiveness and success of livelihood interventions, such as security threats, discrimination in accessing resources, gender inequality or lack of resources from or training by the public administration.

5. Key legal principles and standards

The right of internally displaced persons to access sustainable livelihoods is primarily rooted in the principle of **non-discrimination, the right to an adequate standard of living, and the right to work**. Access to **education** and adequate **health** care are also closely linked to the ability to develop a sustainable livelihood. In turn, achieving sustainable livelihoods is considered a prerequisite for the exercise of other fundamental rights.

The **right to an adequate standard of living**⁵ encompasses several more specific rights, including the right to food, the right to water, the right to clothing, and the right to housing.

⁵ Art. 11 of ICESCR; See also General Comments 7, 12 and 15, Committee for Economic, Social and Cultural Rights.

The **right to work**⁶ refers to the right of everyone to the opportunity to earn a living in a safe work environment, and also provides for the freedom to organize and bargain collectively. This right also prohibits the use of compulsory or forced labour.

The **Guiding Principles** on Internal Displacement⁷ establish that internally displaced persons shall not be discriminated against as a result of being displaced, and refer to the right to **freely seek opportunities for employment and participate in economic activities**.

The right to an adequate standard of living and the right to work do not mean that the State is obliged to provide houses or jobs to everyone. Rather, it is a basic obligation of States to **take steps**, individually and through international assistance and cooperation, especially economic and technical to achieve the **full realization** of these rights.⁸

In the context of **humanitarian relief operations**, however, this means that the State is required to **provide** goods and services, such as shelter, food and water, to persons who, due to the circumstances, are unable to satisfy their basic needs. If a state is unable or unwilling to guarantee a minimum level of each right, international human rights law requires that the State seek international assistance.

International humanitarian law (IHL) includes the prohibition of attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population. This prohibition is a norm of customary law and applies in both international and non-international armed conflicts.⁹ These objects include crops, livestock, drinking water installations and supplies and irrigation works. The list is not exhaustive and includes other productive assets together with medicines, clothing and shelter.

IHL also **prohibits the use of starvation as a method of warfare**, a customary rule that applies in international and non-international armed conflicts. Starvation used as a weapon of war constitutes a war crime under the Statute of the International Criminal Court.¹⁰ Under IHL, this rule does not prohibit the use of siege to achieve a military objective. However, when conducting such military operations the parties to the conflict are to respect another customary rule of IHL: they “must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need, which is impartial in character and conducted without adverse distinction, subject to their right of control.”¹¹

6. Key stakeholders

A credible livelihood programme will require that IDPs and other affected populations are at the centre of the initiatives taken and will involve close cooperation with the IASC Country Team, the government, and development actors such as the World Bank, UNDP, ILO, FAO and bilateral agencies. There should be coordination mechanisms within the Ministry in charge of internal displacement, and among other ministries, particularly those responsible for planning, finance, labour and economic development, agriculture, health, housing, education and public order. Protection and assistance programmes for IDPs should be incorporated into national development plans and poverty-alleviation initiatives.

Discussions with donors should involve suggestions how they can best contribute to self-reliance and sustainable livelihoods. Members of the international community can use their influence and “good offices” with national authorities to advocate for sustainable livelihoods for IDPs.

⁶ Art. 23 of UDHR; Art. 5 (e) (i) of ICERD; Arts. 6 and 7 of ICESCR.

⁷ Guiding Principles 22 and 29.1.

⁸ Art. 2 of ICESCR

⁹ Rule 54, Customary International Humanitarian Law, Vol. 1: Rules.

¹⁰ ICC Statute, Art. 8 (2) (b) (xxiv).

¹¹ Rule 55, Customary International Humanitarian Law, Vol. 1: Rules. Art. 54 (2) Protocol I, Art. 14 Protocol II.





References

- *Gender Handbook in Humanitarian Action: Women, Girls, Boys and Men: Different Needs, Equal Opportunities*, Inter-agency Standing Committee, 2006.
- *Guidelines for Social and Economic Reintegration of Ex-Combatants*, ILO Crisis Response and Reconstruction Programme (to be released end of 2007).
- *Handbook for Repatriation and Reintegration Activities*, UNHCR, Geneva, 2004.
- *Handbook for Self-Reliance*, UNHCR, Geneva, 2005.
- *UN Operational Guide to the Integrated Disarmament, Demobilization and Reintegration Standards*, available at http://www.unddr.org/iddrs/iddrs_guide.php



Useful websites

- Livelihoods Connect, Support for Sustainable Livelihoods <http://www.livelihoods.org>
- UNDP, Crisis Prevention and Recovery
http://www.undp.org/cpr/we_do/early_recovery.shtml
- United Nations Disarmament, Demobilization and Reintegration Resource Centre
<http://www.unddr.org>

Action Sheet 17

Education



Key Message

Education is both a basic human right and an essential tool for protection. When provided in a safe learning environment, education can be both life-saving and life-sustaining. It can prevent exposure to serious protection risks, help individuals and communities to cope with the effects of displacement, and facilitate reconciliation and reintegration once displacement ends. It is crucial to ensure that internally displaced persons, including children and adolescents, have full and equal access to education during all stages of displacement.

The **Minimum Standards on Education in Emergencies, Chronic Crisis and Early Reconstruction** provide minimum standards, indicators and guidance notes on ensuring access to quality education in humanitarian settings. The Standards are available in English, French, Arabic, Spanish, Portuguese, Urdu, Japanese, Thai, Bahasa Indonesian, and Bangla, at www.ineesite.org/page.asp?pid=1240

1. The importance of education

Ensuring full and equal access to education in situations of internal displacement is both an aim in itself and an important tool of protection. Education provides people with access to life-saving and life-sustaining skills and knowledge, and, if provided in a safe learning environment, it can:

- Help reduce exposure to serious protection risks, such as sexual violence and exploitation, forced recruitment, trafficking, or forced and hazardous labour.
- Convey key messages about protection risks and concerns, such as landmines, sanitation and hygiene, and nutrition.
- Provide a basis for sustainable livelihoods and successful social and economic (re)integration into society.
- Mitigate the psycho-social impact of conflict and displacement by providing a degree of stability and normalcy, in particular for children and adolescents.
- Contribute to peace and reconciliation by promoting understanding and tolerance.

Different forms of education

Formal education usually results in the attainment of recognized certificates or diplomas. It includes primary, secondary and tertiary education, as well as formal vocational trainings.

Non-formal education is usually undertaken in less formal settings and does not necessarily lead to recognized certificates and diplomas. It includes various semi structured recreational and learning activities in child friendly spaces.

2. Obstacles to full and equal access to education in situations of internal displacement

Education, vocational training and other learning activities are often disrupted during conflict and displacement. Internally displaced persons face numerous obstacles in accessing safe education, such as:

- **Lack of adequate educational facilities** – School buildings and/or grounds may be lacking or be inadequate, for instance because they have been damaged or lack heating, electricity or sanitation facilities. They may also be occupied by displaced

persons in need of shelter or be located in places that are inaccessible, for instance because of lack of safe transport.

- **Lack of resources** – Loss of homes, land and livelihoods often results in poverty and marginalisation and internally displaced persons may lack the resources to pay for tuition, books, clothing, school supplies and/or meals. Children and adolescents, in particular girls, are often required to work or assist with domestic chores, and as a result may not be able to attend school.
- **Discrimination** – Access to education can be limited as a result of discrimination, for instance on grounds of gender, ethnic or linguistic background. Displacement can both compound such discrimination and give rise to additional discriminatory practices. As an example, displaced children are often unable to enrol in school in the place of displacement because they lack the necessary documentation or are unable to meet strict admissions and enrolment procedures.
- **Lack of safety and security** – Children can be exposed to various protection risks *en route* to or while attending school, for instance as a result of direct or indiscriminate military attacks, forced recruitment practices, or the presence of landmines.
- **Lack of safe learning environments** – Conflict and displacement can undermine the safety of the learning environment. Peer-to-peer violence, corporal punishment, sexual abuse or exploitation, lack of qualified staff, and inadequate monitoring and supervision within the education system, can discourage children and adolescents from attending school and contribute to high drop-out rates.

3. The role of human rights and humanitarian actors

Human rights and humanitarian actors play an important role in ensuring full and equal access to education. This includes advocating with national authorities and, where appropriate, assisting them in ensuring that all internally displaced children and adolescents have full and equal access to education, vocational training and other learning opportunities. In some cases, schools and/or vocational training programmes may also be run by humanitarian or other actors.




Internally displaced children and adolescents should have full and equal access to education and every effort should be made to ensure their (re)integration into the national educational system. Where access to formal education has been temporarily disrupted immediate action should be taken to provide semi-structured learning and psycho-social support in safe spaces for children and adolescents. Such activities can contribute to their physical, mental and emotional well-being and facilitate their transition back into the formal school system. The following table provides basic guidance on the steps that should be followed when addressing lack of education in emergency settings.



In our work we can ...

Immediate response	<p>Work with the community to provide children and adolescents with semi-structured educational activities in a safe and child-friendly space. Such activities should be age and gender-sensitive, and be designed, planned and implemented by or together with the displaced community, including displaced teachers, community leaders, parents, and older children and adolescents with basic teaching capabilities. This may, for instance, include:</p> <ul style="list-style-type: none"> ● Basic numeracy and literacy classes. ● Recreational activities (sport, music, games or art) aimed at alleviating trauma and psycho-social distress. ● Information about risk and ways to avoid these, including mine awareness, disease prevention, basic hygiene, etc.
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	<ul style="list-style-type: none"> • Psycho-social support and referral mechanisms.
Initial assessment <i>(see Part III.1)</i> 	<p>Work with national authorities as well as displaced community to assess if and to what extent displaced children and adolescents can be integrated into the formal educational system in the place of displacement. This may include assessing:</p> <ul style="list-style-type: none"> • The number, level and profile of displaced students and teachers. • The capacity of the local school system and its ability to cater for IDPs. • The obstacles experienced by IDPs (legal, economical, cultural, institutional). • Any documentation and certification requirements. • The need for special or additional schooling or training for children, parents, or teachers to enable their full participation in the system, including the need for language classes, peace education, positive discipline, prevention of GBV, etc.
Advocacy <i>(see Part IV.3)</i> 	<p>Advocate with relevant authorities to ensure full and equal access to education for all, including the internally displaced. This may include ensuring that:</p> <ul style="list-style-type: none"> • displaced children have full and equal access to the formal educational system, including local schools and learning opportunities. • displaced teachers can be employed in local schools without discrimination. • strict enrolment and/or admissibility criteria are eased or applied with flexibility so as not to exclude the internally displaced (e.g. documentation requirements). • adequate facilities and resources are provided to enable schools and other educational institutions to cater for internally displaced persons. This may include enlarging or improving existing school infrastructure or establishing new institutions or subsidiary classes.
Reintegration into the formal education system <i>(see Part III.3)</i>	<p>Assist relevant authorities to build the capacity of the national education system in order to facilitate the integration of the internally displaced persons at the earliest opportunity (within 6-12 months maximum). This may include:</p> <ul style="list-style-type: none"> • Providing support for the rehabilitation of existing institutions and/or the building of new schools and educational facilities. • Providing or supporting the development of educational materials. • Supporting measures aimed at ensuring safe learning environments. • Provide training for teachers and instructions, including in subjects such as peace education, psycho-social support, and prevention of GBV. • Provide targeted support to individuals that may face specific obstacles to accessing education or vocational training, including orphaned children, adolescent girls, and teenage mothers.
Monitoring and evaluation <i>(see Part IV.1 and Part III.3)</i> 	<p>Ensure that all education activities, both formal and non-formal, are monitored and evaluated on regular basis through participatory methods involving students, parents, teachers and other educational staff. In particular, ensure that adequate monitoring, reporting and referral mechanisms are established in order to ensure adequate follow-up on incidents of sexual violence or exploitation, peer-to-peer violence, corporal punishment and other abuse, and increases in drop-out rates.</p>
<p>Do you have suggestions about other activities? If so, please share them with us at hqidphb@unhcr.org</p>	

Key considerations

Several key considerations should guide efforts to ensure full and equal access to education.

- **Equal access** – Both the displaced and the host population should have full and equal access to education and all education activities should thus target the community as a whole. The creation of parallel or separate institutions or activities should be avoided

where possible in order to avoid stigma and discrimination. Distribution of school kits, school materials, and/or financial support for educational purposes should similarly be made available to both groups.

- **Community-based approach** – The participation of the displaced and the host community, including students, parents and teachers (of both sexes), is essential to create a sense of ownership and ensure that activities are adapted to the local cultural and social context. The community should participate in the design, implementation and monitoring of education activities and form part of the decision-making process at all stages. The community can, for example, organize alternative childcare to enable girls to attend school, provide escort to and from school, and help define codes of conduct for education staff. Students can also play an active role through peer-to-peer support, dissemination of life-saving messages in a child-friendly manner, and mentoring. In order to ensure effective participation, parents and students should have access to information, be represented in school management or education committees, and be provided with training on human rights and other issues.
- **Keeping children safe** – Schools and other learning spaces must be safe and secure in order to avoid exposing children and adolescent to violence, exploitation and other protection risks. This includes ensuring that:
 - Schools and their surroundings, including latrines, are safe, gender-sensitive and child-friendly.
 - All education staff, both national and international, has decent working conditions, respect a code of conduct, and receive basic training on topics such as teaching methodology, human rights, prevention of sexual violence and exploitation, psycho-social support, and positive discipline. The recruitment of female teachers and assistants should be promoted.
 - The curriculum and teaching methodology should be participatory and aim to promote peace, reconciliation and constructive dialogue, including life-skills education.
 - Students should be informed of their rights (and responsibilities), be familiar with available monitoring and referral mechanisms, and the code of conduct governing the work of teachers and other educational staff.
 - Parents and any parents-teachers associations should be involved in keeping their children safe, and monitoring the safety of learning spaces.
- **A holistic approach** – Education cannot be provided in isolation and important linkages must be forged with other sectors, such as health, food, nutrition, and community services, in order to address the root causes of lack of access to education.

4. Key legal principles

International (and regional) human rights law guarantees the right to free and compulsory education for all at the elementary level.¹ It encourages the development of accessible and affordable secondary education, including both general and vocational education, as well as higher education. The law also prohibits any form of discrimination in this regard, including on the grounds of being internally displaced.

All States must therefore ensure: that primary education is *available* to everyone and that secondary and higher education is progressively made available; that education is provided

¹ See, at the international level, Art. 26 of UDHR; Arts. 24(2)(e) and (f), 28 and 29 of CRC; Arts. 6, 13 and 14 of ICESCR; Art. 18 of ICCPR; Art. 5(e)(v) of ICERD; Arts. 10, 11(1)(c) and 14(2)(d) of CEDAW; the Convention against Discrimination in Education; and Principle 23(3)(4) of the Guiding Principles on Internal Displacement. At the regional level, Art. 17 of AfCHPR and Arts. 4(d) and 12 of its Protocol on the Rights of Women in Africa; Arts. 11 and 20(2)(a) of AfCRWC; Art. 13 of the Additional Protocol to the AmCHR in the Area of Economic, Social and Cultural Rights; Art. 34 of ArCHR; and Art. 2 of Protocol I to ECHR. See also the Education for All Framework and the Millennium Development Goals.

without discrimination and that it is physically and economically *accessible* to everyone; that education is of *acceptable* quality; and that its *adaptable*, meaning that it is flexible and responds to the best interests of each child or adult.²

States must also take steps to ensure full and equal participation of women and girls in all education and vocational training programmes. This includes taking all appropriate measures to eliminate discrimination against women and girls, including through various forms of affirmative action.

International humanitarian law requires that children be provided with special respect and protection and given the care and aid they require, including access to safe education.³ The law also prohibits direct and indiscriminate attacks or reprisals against civilian property, including schools, playgrounds and other educational facilities.⁴ Intentionally directing attacks against such objects can constitute a war crime in both international and non-international conflicts.⁵



5. Key actors

At the global level, coordination of the humanitarian response to education is primarily the responsibility of the Education Cluster, which is co-lead by UNICEF and the Save the Children Alliance. A number of actors may need to be involved in order to ensure the success of education programmes, including:

- At the **national level**, displaced individuals and communities; Ministries of Education and Social Services; teachers' unions; students' unions; and local NGOs and civil society.
- At the **international level**, UNHCR, UNICEF, UNESCO, WFP (school feeding programmes), UNFPA, UNDP, Save the Children Alliance, CARE, CCF, CRS, AED, NRC, IRC, Refugee Education Trust, and World Vision.



References

- *Minimum Standards on Education in Emergencies, Chronic Crisis and Early Reconstruction, Inter-agency Network for Education in Emergencies (INEE)*, 2004. Available in English, French, Arabic, Spanish, Portuguese, Urdu, Japanese, Thai, Bahasa Indonesian, and Bangla. www.ineesite.org/page.asp?pid=1240
- *Technical Kit for Emergency Education, Inter-agency Network for Education in Emergencies (INEE)*. www.ineesite.org/page.asp?pid=1246
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- *The Right to Education in Situations of Internal Displacement, in Manual for Domestic Law and Policy-makers on Implementing the Guiding Principles on Internal Displacement*, Brookings-Bern Project on Internal Displacement, forthcoming 2008.
- *Guidelines on Mental Health and Psycho-social Support in Emergency Settings*, Inter-agency Standing Committee, 2007. www.humanitarianinfo.org/iasc



² See e.g. General Comment No. 13 (1999) of the Committee on Economic, Social and Cultural Rights on the right to education (E/C.12/1999/10). See also General Comment No. 11 on plans of action for primary education (E/C.12/1999/4) and General Comment No. 1(2001) of the Committee on the Rights of the Child on the aims of education (CRC/GC/2001/1).

³ See Rule 135 of Customary International Humanitarian Law. Volume I: Rules (ICRC, 2005). See also Arts. 23-24, 38, 50, 76 and 89 of the Fourth Geneva Convention; Arts. 70(1), 77(1) and 78(2) of Additional Protocol I; and Art. 4(3) of Additional Protocol II.

⁴ See e.g. Rules 1-2, 7, 9, 11-13 of Customary International Humanitarian Law. Volume I: Rules (ICRC, 2005). See also Arts. 48, 51 and 52 of Additional Protocol I; Art. 13 of Additional Protocol II; and Art. 21(2)(b) of the Guiding Principles on Internal Displacement.

⁵ See e.g. Arts. 8(b)(ix) and 8(e)(iv) of the Statute of International Criminal Court.



Useful websites

- Inter-Agency Network for Education in Emergencies (INEE) www.ineesite.org
- Right to Education www.right-to-education.org
- United Nations Children Fund (UNICEF) www.unicef.org
- United Nations High Commissioner for Refugees (UNHCR) www.unhcr.org
- United Nations Education, Scientific and Cultural Organisation (UNESCO) www.unesco.org

Annex I

INEE Minimum Standards for Education in Emergencies, Chronic Crisis and Early Reconstruction

The INEE Standards contain minimum standards, indicators and guidance notes on ensuring access to quality education in humanitarian settings. The Standards, which are summarized below, are divided into five categories: (1) standards common to all categories; (2) access and learning environment; (3) teaching and learning; (4) teachers and other education personnel and (5) education policy and coordination <http://www.ineesite.org/page.asp?pid=1240>

Minimum standards common to all categories	
Community Participation	
Participation	Emergency-affected community members actively participate in assessing, planning, implementing, monitoring and evaluating the education programme.
Resources	Local community resources are identified, mobilized and used to implement education programmes and other learning activities.
Analysis	
Initial assessment	A timely education assessment of the emergency situation is conducted in a holistic and participatory manner.
Response strategy	A framework for an education response is developed, including a clear description of the problem and a documented strategy for action.
Monitoring	All relevant stakeholders regularly monitor the activities, the education response and the evolving needs of the affected populations.
Evaluation	There is a systematic and impartial evaluation of the education response in order to improve practice and enhance accountability.
Access and learning environment	
Equal access	All individuals have access to quality and relevant education opportunities.
Protection and well-being	Learning environments are secure, and promote the protection and mental and emotional well-being of learners.
Facilities	Education facilities are conducive to the physical well-being of learners.
Teaching and learning	
Curricula	Culturally, socially and linguistically relevant curricula are used to provide formal and non-formal education appropriate to the particular emergency situation.
Training	Teachers and other education personnel receive periodic, relevant and structured training according to need and circumstances.
Instruction	Instruction is learner-centred, participatory and inclusive.
Assessment	Appropriate methods are used to evaluate and validate learning achievements.



Teachers and other education personnel	
Recruitment and selection	A sufficient number of appropriately qualified teachers and other education personnel is recruited through a participatory and transparent process based on selection criteria that reflect diversity and equity.
Conditions of work	Teachers and other education personnel have clearly defined conditions of work, follow a code of conduct and are appropriately compensated.
Support and supervision	Supervision and support mechanisms are established for teachers and other education personnel, and are used regularly.
Education policy and coordination	
Policy formulation and enactment	Education authorities prioritize free access to schooling for all, and enact flexible policies to promote inclusion and education quality, given the emergency context.
Planning and implementation	Emergency education activities take into account national and international educational policies and standards and the learning needs of affected populations.
Coordination	There is a transparent coordination mechanism for emergency education activities, including effective information-sharing among stakeholders.


Action Sheet 18

Food Aid and Nutrition



Key message

If delivered strategically and in a protection-sensitive manner, food aid will not only save lives but also help rebuild communities, and foster peace and reconciliation efforts. If provided without regard to the political environment or the underlying causes of displacement and food insecurity, food aid may do more harm than good.

For food aid to be effective, it must be accompanied by other support measures, such as education on food preparation, or the provision of non-food items such as cooking fuel and utensils. In addition, food security goes hand in hand with income-generation, self-reliance and development activities. This aspect of food security is dealt with in another part of the Handbook, (see *Action Sheet on Livelihoods, Part V.16*). 

1. Food insecurity and malnutrition during internal displacement

The use of the term *food security* in this chapter should be understood as *having physical and economic access to sufficient and sustainable food to meet their dietary needs in order to lead a healthy and productive life*.

It is essential to ensure that food aid not only contributes to preserving the life and adequate nutrition levels of those affected by displacement, but also realizes its full potential to become, itself, an agent of protection.

As an agent of protection, food aid can help ensure, for example, that children, particularly girls, have access to education. School feeding programmes encourage children to attend school regularly and in greater numbers.

Access to adequate food and nutrition is, together with access to water, one of the most important humanitarian concerns for any human being. During displacement, all stages of nutrition – production, procurement, preparation, allocation and consumption of food – are disrupted.¹ Communities that may have previously developed group coping mechanisms and solidarity networks to mitigate the impact of food shortages, find themselves suddenly scattered.

Poverty and food shortages can expose displaced people to serious risks, such as sexual exploitation of women and girls. Mothers may feel compelled to use any means to obtain food for their children, including by agreeing to sexual favours or prostitution in exchange for food or the means to obtain it.

Inadequate nutrition among children can seriously affect their physical and mental development, may prevent them from attending school, and push them into child labour to contribute to the family's income.

2. Responsibility of the State

States should do everything possible to promote the full enjoyment of the right to adequate food for everyone within their territory. Some of these measures would be immediate; others would be long-term to progressively achieve the full realization of the right to food. In this context, States must:

¹ Pejic, Jelena, "The Right to Food in Situations of Armed Conflict: The Legal Framework," in *IRRC*, December 2001, Vol. 83, No. 844, pp. 1097-1109.

- take steps to secure the right to adequate food whenever an individual or group is unable to enjoy this right on their own. This includes preventing discrimination concerning access to food and preventing malnutrition or starvation. If the State does not have the resources to do so, it should seek international support;
- strengthen people’s resources and means to ensure their livelihood, including food security. This includes enforcing security measures along roads and in settlements, agricultural areas and marketplaces;
- ensure that food not only provides the optimum nutrition required for a healthy and active life, but that it is also culturally acceptable and free from harmful substances;
- take conflict-resolution and -prevention measures to ensure access to and sharing of vital resources for food preparation, such as firewood;
- abstain from taking any measure that could prevent IDPs and other affected populations from having access to food;

3. The role of human rights and humanitarian actors

Food aid is often the first form of humanitarian aid to protect the lives of war-affected populations. Food aid in displacement situations must focus on strengthening the capacity of national authorities to restore food security.

In the short term, this implies supporting the distribution of emergency rations and related non-food items. In the long term, it consists of assisting national actors in the development of opportunities to either generate income with which to obtain food, or to produce food in the places of origin or relocation.



In our work we can...

Assessment and analysis *(see Part III.1)*


- Liaise with national and international food-aid agencies at the very onset of a crisis. They are usually the first to have access to displaced populations and they can obtain first-hand information on the overall conditions and most pressing protection gaps.
- Where not available locally, seek expertise and advice should be sought through the Global Emergency Shelter Cluster. They can field a specialist to coordinate activities in this sector, at least for the initial assessment/planning period to undertake an evaluation and make specific recommendations for the (re)orientation of the programme.
- Ensure that any food-aid and nutrition assessments are carried out in conjunction with specialized protection and community services staff to ensure wide-ranging identification of protection risks for individuals of different ages, sex and backgrounds.
- Food-aid and nutrition assessments should include tools to look beyond the food related needs and into the (potential) protection concerns of a community:
 - To identify who are the most invisible groups in the community, the power relations, and the existing specific needs of any group according to age/sex. This may help to ensure that food distribution does not exacerbate vulnerability.
 - To ensure that the community’s and individuals’ own coping mechanisms are supported and, if possible, reinforced, for example, by assessing the level of “visibility” of IDPs and whether they hide to protect themselves. This will greatly affect how food is distributed.
 - To ensure that specific nutrition needs and traditions of different groups are protected, including children, elderly persons, chronically ill persons, pregnant and lactating women and indigenous groups.
- Joint assessments on food and related sectors should include displaced populations who are not in camps or broader settlements, but also those dispersed in smaller groups and living with host families.



- The food needs and nutrition and public health conditions of the host communities should also be assessed early to avoid creating tensions. Eventually, any food-aid programme should be approached with a broader perspective.
- Familiarity with conditions in both the area of displacement and the area of origin is of utmost importance to ensure culturally appropriate food and local procurement of food and non-food items to the extent possible.

Planning and programming of food aid and nutrition-support programmes

*In war torn countries where infrastructure has been destroyed, markets depleted and where there is no possibility of growing or purchasing food, food warehouses and convoys have been repeatedly attacked. On occasion, IDP settlements have been attacked by fighters, either during or immediately after a food distribution, as was the case in Liberia in the late 1990s. The realization that food aid could be diverted and fuel conflict prompted some NGOs and UN agencies to issue the **Joint Principles of Operation**, a first attempt at a code of conduct for humanitarian actors that operated in Liberia in the late 1990s and early 2000s.*

- Coordinate all food distribution activities within the country team, particularly with the CCCM, protection, health, nutrition, education and agriculture sectors/clusters or working groups, and the WFP-led logistics common service area and food sector.
- Joint planning and programming between protection and specialized food agencies and public institutions is vital to mainstream protection-related aspects in the programming of food aid.
- Avoid turning food aid into a pull factor for encampment if there are other alternatives (see Part V.13).  If the situation allows, a food-aid system that enables IDPs to live among host families or in a more dispersed manner should be prioritized, in spite of the greater logistical constraints it may entail.
- The possession of food should not expose IDPs to further human rights violations:
 - Undertake joint planning with the community, including IDP women and men, as well as IDP leaders, to ensure that adequate measures are taken to maximize safety measures and avoid risks for the population.
 - Calculate the frequency of distributions trying to avoid any eventual protection risks; the greater the time between distributions the larger the quantities distributed, which may put IDPs and other affected populations at risk of attacks and pillage.
 - Plan the location of distribution points and their distance from places of residence taking into account possible risks for recipients of food aid; they should not have to traverse long distances or go through conflict zones where they may be exposed to serious safety risks, particularly women and children.

Registration for food distribution

Registration systems should be devised in cooperation with other agencies and should include relevant information to help address food and other protection needs.

- At a minimum, registration should be based on family groups and should include the names of all male and female adults in the family. All data should be disaggregated by age, sex, place of origin, and ethnic background.
- The practice of registering only the male *head-of-household* / *head of family* should be discouraged and, certainly, never used to exclude the registration of other adult family members.
- Registration should be combined with sensitization that the food provided is for the family groups and not only for the person whose name is being registered for distribution.
- Given the sensitivity of the information, personal data and lists of recipients should be kept strictly restricted to concerned actors and kept safe from unintended use.
- Births should be registered in a timely manner and the necessary adjustments should be made accordingly on the lists for food distribution.

<p>Distribution procedures</p>	<ul style="list-style-type: none"> • Ensure that standard procedures are in place and well known to all, to guarantee the safety of women and children during food distribution. • Ensure the adoption of a zero-tolerance policy for sexual exploitation and other forms of abuse of power by aid workers or those providing food aid. To this end, it is important to: <ul style="list-style-type: none"> – hire female staff for key managerial positions in food aid programmes – make sure that all IDPs are aware of their entitlements and rights; – maintain complaint referral mechanisms and mailboxes in the camps or collective settings for the population to communicate their concerns – ensure that distributions are undertaken by a combined group of stakeholders, including men and women, to avoid corruption and deviation; – make sure that women are also on the receiving end of the distributions, either in the company of their spouses or alone to directly receive the food rations for their family. – monitor the store’s management and record-keeping frequently; – provide safe waiting areas for children during lengthy food-distribution processes to avoid any forms of violence and abuse or family separation during that time; – ensure that all humanitarian staff know the consequences of abuse of power. • provide transportation assistance, if needed, so women, children, older persons and persons with disabilities have access to food.
<p>Monitoring of food aid distribution and its effects</p>	<p>Conduct regular food basket monitoring to assess the adequacy of food distribution systems.</p> <ul style="list-style-type: none"> • Conduct regular consultations and post-distribution monitoring with the community to assess the impact of food distributions, use of food, or protection problems that might arise during or after distributions. Involve the community in identifying solutions. Regularly monitor the use of food rations by recipients to ensure that aid is not being diverted after the distributions. • In camp situations, consult with camp management and protection agencies on the possible presence or infiltration of armed elements and provide relevant information relating to food monitoring. • Monitoring mechanisms should include a system for referral of detected cases that need immediate response, such as medical care, legal assistance and counselling in cases of food-related sexual exploitation, abuse or corruption. • Undertake country-wide surveys with other agencies to identify instances of food blockage by armed actors or others and discriminatory access to food aid. These should be followed up by the Protection Cluster or working group and the HC, with the relevant stakeholders. • Monitor whether school feeding projects retain and increase the percentage of boys and girls at school and revise the programmes as necessary. • Monitor whether food aid has a negative impact on the level of prostitution or survival sex among women and, if so, determine possible causes, such as a lack of diversity in food items, or insufficient quantities. • Ensure appropriate monitoring of the nutrition status of the population by specialized agencies.
<p>Training and awareness-raising</p>	<p>In order to ensure that protection is incorporated into food-aid programmes:</p> <ul style="list-style-type: none"> • Provide training on protection issues to those involved in food distribution and monitoring to make sure that they understand the all the implications of food aid, and are able to anticipate and/or detect abuses. • Provide training to food-aid staff and those of related sectors on the mandates and specific tasks of protection agencies, as well as referral mechanisms. • Maximize the use of food-distribution exercises as venues to promote awareness of certain protection issues, including access to education, separated children, nutrition, and female genital mutilation.

Do you have suggestions about other activities? If so, share them with us at hqidphb@unhcr.org



4. Key actors and coordination structures

Ensuring an effective response requires a multi-sectoral and coordinated effort by a range of local, national and international actors. These include, for example:

- At the **national level**, in addition to displaced people and the affected communities, key partners include Government line ministries, such as social welfare, health, public health, education, religious affairs, interior, police, justice; faculties of medicine, public health, agronomy, local industries and professional organizations; local NGOs and civil society, particularly women's and youth organizations.
- At the **international level**, WHO leads and coordinates food related issues globally. UNICEF is the lead for the global nutrition cluster. They work in close partnership with UN and international agencies, such as ICRC, UNHCR, WHO, FAO, OHCHR, IFRC, as well as with a large group of international NGOs specialized in food and/or nutrition, such as Action contre la Faim, IRC, Oxfam, Save the Children Fund, World Vision and other agencies with expertise in the fields of food aid, nutrition, protection, public health, self-reliance, security, logistics, education.

5. Key legal principles

Access to adequate food is both an **individual right** and a **collective responsibility**. The right to freedom from hunger is intrinsically linked to the right to life; at the very minimum, States must ensure that populations in their territory do not starve.²

The right to food does not mean that the State has an obligation to feed everyone. **States have a general obligation to work toward “progressive realization”** of the right to food and the right to be free from hunger using the maximum of “available resources.”³ States are also required to create conditions that guarantee food security, for example through legislation, public policy and specific programmes.

States also have an immediate **obligation to avoid discrimination in access to adequate food**; this includes discrimination on the basis of displacement. The Guiding Principles on Internal Displacement⁴ establish that “humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.”

“The right to adequate food is realized when every man, woman and child, alone or in community with others, has physical and economic access at all times to adequate food or means for its procurement.

The right to adequate food shall therefore not be interpreted in a narrow or restrictive sense which equates it with a minimum package of calories, proteins and other specific nutrients.”

In humanitarian emergencies, the obligation to fulfil the right to food also applies; “whenever an individual or group is unable, for reasons beyond their control, to enjoy the right to adequate food by the means at their disposal, States have the obligation to *fulfil (provide)* that right directly. This obligation also applies for persons who are victims of natural or other disasters.”⁵ The Guiding Principles⁶ establish that at the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to: (a) Essential food and potable water.”

² See art 25 of UDHR and Art. 11.1 and 2 of ICESCR

³ Article 2.1 of the ICESCR, see also Article 4 of the CRC.

⁴ Guiding Principle 24.1

⁵ General Comment 12 (1999); The right to adequate food; UN Committee on Economic Social and Cultural Rights; See also Guiding Principle 25 which states that “The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities”.

⁶ Guiding Principle 18.2

Where **States are unable to provide food assistance to prevent malnutrition and starvation, they are required to seek international assistance**, including from bilateral, UN and NGO sources.⁷ States in a position to assist have a joint and individual responsibility, in accordance with the Charter of the United Nations, to cooperate in providing disaster relief and humanitarian assistance in times of emergency, including assistance to refugees and internally displaced persons. Food aid should, as far as possible, be provided in ways which do not adversely affect local producers and local markets, and should be organized in ways that facilitate the return to food self-reliance of the beneficiaries. Such aid should be based on the needs of the intended beneficiaries. Products included in international food trade or aid programmes must be safe and culturally acceptable to the recipient population.⁸

International humanitarian law (IHL) includes the **prohibition of attacking, destroying, removing or rendering useless objects indispensable to the survival of the civilian population**. This prohibition is a norm of customary law and applies in both international and non-international armed conflicts.⁹ This includes foodstuffs, crops, livestock, drinking water installations and supplies and irrigation works. IHL also **prohibits the use of starvation of the civilian population as a method of warfare**, also a customary rule that applies in international and non-international armed conflicts.

Using **starvation as a weapon of war constitutes a war crime** under the Statute of the International Criminal Court.¹⁰ Under IHL, this rule does not prohibit the use of siege to achieve a military objective. However, when conducting such military operations, the parties to the conflict are to respect another customary rule: they “must allow and facilitate rapid and unimpeded passage of humanitarian relief for civilians in need which is impartial in character and conducted without adverse distinction, subject to their right of control.”¹¹



Resources

- *Food Aid and Livelihoods in Emergencies: Strategies for WFP*, WFP, WFP/EB.A/2003/5-A, 2003.
- *Joint Assessment Mission Guidelines (UNHCR/WFP)*, 2004
- *Food and Nutrition Needs in Emergencies*, UNHCR, UNICEF, WFP and WHO, 2003.
- *UNHCR Handbook for Emergencies*, 2007
- *Food Distribution Guidelines*, WFP, (new edition forthcoming).
- *Nutrition in Emergencies: WFP Experiences and Challenges*, WFP, WFP/EB.A/2004/5-A/3, 2004.
- *Targeting in Emergencies*, WFP, WFP/EB.1/2006/5, 2006.



Useful websites

- Food and Agriculture Organization (FAO): www.fao.org
- Right to Food: www.righttofood.org
- World Food Programme (WFP): www.wfp.org
- United Nations Children Fund (UNICEF): www.unicef.org

⁷ ICESCR art. 2.1. This is reinforced in art. 11.2 under which States “shall take, individually and through individual cooperation” measures to fulfil the right of everyone to be free from hunger.

⁸ CESCR General Comment 12.

⁹ Rule 54, Customary International Humanitarian Law, Vol. 1: Rules

¹⁰ ICC Statute art. 8(2)(b)(xxiv).

¹¹ Rule 55, Customary International Humanitarian Law, Vol. 1: Rules . Art 54 (2) Protocol I, art. 14 Protocol II.

Action Sheet 19

Water and Sanitation



Key message

“The human right to water entitles everyone to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic uses.”¹

Water and sanitation are essential to life, health and dignity and are a basic human right. During displacement, populations must urgently secure access to water and basic hygiene facilities to ensure their survival and their dignity until they can return home or find another durable solution. This chapter aims to give an overview of how the adequate provision of water, sanitation and hygiene (WASH) is essential for the protection of internally displaced persons.

1. Protection risks

The provision of clean water and sanitation needs to be timely and adequate from the beginning of an emergency. Any water and sanitation programme implemented without simultaneously promoting proper hygiene will not effectively prevent diseases and deaths. To ensure effective protection during displacement, basic principles for the provision of water and sanitation services need to go beyond ‘**what**’ is provided (e.g. more than 20 liters per person per day of clean water, or at least one latrine per 20 persons) to include ‘**how**’ the services are provided. A well-planned WASH programme should ensure that **protection risks are reduced and vulnerability is mitigated**.

Inappropriate design and location of water and sanitation facilities can provoke serious protection risks for displaced people, particularly women and girls, but also for people with specific needs, such as older persons and persons with disabilities.

Access to water has frequently been a source of conflict within and between communities. This becomes particularly evident during displacement, when there is often a scarcity of water due to a large influx of people. If not properly planned and implemented, water and sanitation programmes may create tensions between communities if, for example, local water sources become inadvertently polluted. It is important to give careful consideration to the location of water-distribution points in a camp or setting, as different groups may attempt to take control of the water, claiming that these points are in their area of residence. The location of water-distribution points outside camps or collective centres in an urban environment could place women and girls at greater risk of gender-based violence, as they often have the primary responsibility for collecting water. Girls’ education might also be disrupted if they have to fetch water during school hours because the water points are far from the camp.

Communal latrines and washing facilities located far from dwellings, or without some form of lighting or the possibility of being locked from the inside, also increase the risk of women and girls being subject to harassment, sexual assault and rape. Latrines in collective centres occupying several floors in urban buildings may be inaccessible for older persons, or persons with disabilities, making them dependent on assistance from others, which, in turn, could increase their vulnerability (see Parts V.13 and IV.12).

¹ General comment No. 15 (2002), “the Right to Water,” UN Committee on Economic, Social and Cultural Rights.

In protracted displacement situations, communities may feel that they are gradually losing their independence and sense of responsibility and, as a result, start to neglect the maintenance of water and sanitation facilities, contributing to the sense that they are also losing their dignity.

A WASH project, aimed to increase women’s access to private latrines, used locally available materials, as recommended by the women through community participation. However, the women had to walk far from the settlement to collect these materials, which increased their vulnerability to rape. As a result, the project was modified to ensure that there were other ways of collecting the materials needed. This example shows that with community participation, unintended harmful consequences of initiatives can be avoided, to the benefit of all concerned.

2. The responsibility of the State

All States must take steps to ensure the *availability* of a sufficient and continuous supply of water of adequate *quality*. Water and water/sanitation facilities must also be *accessible* to everyone without discrimination of any kind. This includes ensuring that such facilities are: located within safe reach of all sections of the population; designed in an age- and gender-sensitive way; and affordable to all.²

3. The role of human rights and humanitarian actors

Any established WASH cluster or working group in an IDP operation needs to coordinate activities with relevant national ministries to ensure that interventions are properly planned and implemented jointly. Issues such as disposal of waste and water-quality control, as well as technical aspects, such as the design of wells and latrines, need to be coordinated with the local authorities in order to foster ownership and to ensure that maintenance will be sustainable.

Good coordination between the protection cluster (or working group) and the WASH cluster (or working group) is also important. Protection officers and water and sanitation specialists need to work together to establish WASH activities that include efficient protection for IDPs.



In our work we can...³

Participation of stakeholders *(see Part IV.10)*




- Assess, along with the displaced and host communities, the quantity of water needed in the affected area.
- Mobilize women and men to participate in deciding the location, design and maintenance of water and sanitation facilities. Whenever possible, involve women and men from the host population.
- In protracted situations when water and sanitation facilities are repeatedly damaged, mobilize communities to analyze the causes of the degradation and to develop a sustainable response system.
- Recruit individuals from both the host and IDP populations to implement projects in order to benefit the local economy as well as to ensure a non-discriminatory recruitment process.
- Ensure women’s and girls’ active participation (in separate meetings so that they can freely express their ideas and concerns) in deciding on the location and design of latrines and washing areas to maximize safety, privacy and dignity.

² See General Comment No. 15(2002) of the Committee on Economic, Social and Cultural Rights on the right to water, E/C.12/2002/11. See also General Comment No. 14(2000) on the right to the highest attainable standard of health, E/C.12/2000/4. See also Resolution 60/251 of the Human Rights Council on Human Rights and Access to Water.

³ Annex 1 provides some useful questions to ask yourself and your partners to ensure that your WASH programme includes a protection perspective.



	<ul style="list-style-type: none"> • Sensitize the community and ensure that both men and women take ownership and responsibility for hygiene promotion within the community. Use participatory materials and methods that allow all groups to plan and monitor their own hygiene improvements.⁴ • Establish water and/or sanitation committees composed of 50% women, to be responsible for the maintenance of the facilities and to decide, if necessary, on a schedule for use of the facilities.
Monitoring of the service provided <i>(see Part III.3)</i> 	<ul style="list-style-type: none"> • Ensure that water supplies and sanitation facilities, including in schools and health posts are monitored on the basis of international standards, such as the Sphere standards.⁵ • Ensure that committees monitor water-distribution points and sanitation facilities to mitigate the risk of power abuse, corruption and security incidents.
Acceptability, accessibility and safety of the service provided	<ul style="list-style-type: none"> • Ensure that sanitation facilities, particularly in existing buildings such as collective centres, are appropriate and safe for the users, in addition to being culturally acceptable. Keep in mind an age, gender and diversity perspective, as well as the need for dignity and privacy (e.g. separated cubicles for men and women or the establishment of a schedule). • Where communal laundry facilities are necessary, create private laundering areas for women to wash and dry garments and sanitary cloths. • Distribute suitable materials for sanitary napkins and materials for their disposal. Seek the advice of women and girls in design and implementation. • Make sure that water-distribution points and sanitation facilities are centrally located and not too far from dwellings⁶ so that people with chronic illnesses, disabilities or older people can access them. • Provide adapted hand pumps and light water-carrying containers for use by chronically ill or older people. • Locate facilities close to dwellings, in a secure environment and along safe access paths. Put up lights or provide torches for each household. • If water is being trucked, pumped or rationed, ensure that distribution time and duration are planned with the community, according to women's and men's convenience and cultural habits, and that they are limited to daylight hours. • Make sure that people not able to attend a queuing system, such as older persons or persons with disabilities, receive their share through outreach social workers or volunteers. Ensure that this system is monitored to mitigate abuse of power.
Quality and reliability of services	<ul style="list-style-type: none"> • Ensure that the water supplied is safe and drinkable by establishing a system for regular monitoring of quality, particularly to reduce the risk of faecal contamination. • Design and run facilities jointly with the community to minimize waste (e.g. when fetching water) and maximize use of resources/facilities. • Ensure with the community that facilities are maintained, that spare parts and materials are in stock and that there are adequate water-storage facilities available at household and community levels in case of interruptions. • Coordinate with specialists the training of women and men on the maintenance and use of water and sanitation facilities and on how to make and/or where to find spare parts.

⁴ As a rough guide: in a camp, there should be two hygiene promoters/community mobilizers, one female and one male, per 1,000 members of the population.

⁵ See www.sphereproject.org/handbook/

⁶ E.g. water points within 200m with minimum waiting time and latrines not farther than 50m, preferably one for each family.

Minimum environmental damage

- Ensure a sustainable use of the available water sources, and controlled waste management, especially human excreta.
- Prevent pollution of local water sources and minimize other environmental impact related to water and sanitation activities. For example, providing a gully emptier to local authorities would serve to develop their capacity and to reduce potential hostility within the host population as they would also benefit.
- Control discharge and drainage of wastewater and storm-water to avoid water-induced hazards in the camp and the vicinity.



4. Key actors and coordination structures

- At the **national** level: National line ministries for water and sanitation, public health and social welfare, local NGOs, IDPs and surrounding communities, who will be able to give first-hand information of the topography of the intended geographical area.
- At the **international** level: Agencies specializing in water, sanitation and hygiene, such as UNICEF, WHO, ICRC, IFRC, and international NGOs, including ACF, CARE, IRC and Oxfam.
- Cluster and working groups on WASH, health and camp coordination and camp management.

5. Key legal principles

International (and regional) human rights law guarantees everyone the right to an adequate supply of safe water for personal and domestic use. The right to water is guaranteed both through the right to an adequate standard of living,⁷ and through the right to the highest attainable standard of health.⁸

International humanitarian law prohibits parties in conflict to attack, destroy, remove or render useless indispensable objects for the survival of the civilian population, including water installations and supplies. Care must also be taken to protect the natural environment, including water sources, against widespread, long-term and severe damage that might compromise the health or survival of the population.⁹ Internally displaced persons, regardless of whether they reside in camps or in urban or rural areas, should have full and equal access to water. Special efforts should be made to ensure the full participation of women in the planning on distribution of water and other basic supplies.

Guiding Principles on Internal Displacement (in Annex 1)

Principle 18: (2) At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with, and ensure safe access to ... potable water.



References and resources

- *Emergency Field Handbook: A Guide for UNICEF Staff*, UNICEF, 2005.
- *Emergency Sanitation: Assessment and Programme Design*, P.A. Harvey, S. Baghri, and R.A. Reed, WEDEC, 2002.
- *Engineering in Emergencies: A Practical Guide for Relief Workers*, J. Davis and R. Lambert, 2nd ed., 2002.
- *The Gender Dimensions of Internal Displacement*, Women's Commission for Refugee Women and Children/UNICEF, New York, 1998.

⁷ See e.g., at the international level, UDHR Art. 25(1); CESCR Art. 11; CEDAW Art. 14(2)(h) and CRC Art. 24(2)(c). At the regional level, see also ACRWC Art. 14 and Protocol to the AfCHPR on the Rights of Women in Africa Art. 15.

⁸ See the legal section of Action Sheet 15 on Health.

⁹ See e.g., AP I Art. 54; AP II Art. 14 and Guiding Principle Art. 10(2)(b). See also ICC Statute Art. 8(2)(b)(ii), (iv), (xxv).

- *Gender Handbook in Humanitarian Action: Women, Girls, Boys and Men: Different Needs, Equal Opportunities*, Inter-agency Standing Committee, 2006.
- *Guidelines for Prevention and Response to Sexual and Gender-based Violence in Humanitarian Settings*, Inter-agency Standing Committee, 2005.
- *Handbook for Emergencies*, UNHCR, 3rd ed., February 2007.
- “*The Right to Water and Protecting Refugees*,” D. Shrestha and A. Cronin, *Waterlines*, Vol. 24, No. 3, p. 12-14, 2006.
- *Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response*, 2004.



Useful Websites

- Right to Water, (WHO): www.who.int/water_sanitation_health/rightwater/en/
- Gender and Water Alliance: www.genderandwater.org
- Islamic Supercourse Lectures on Health Promotion, Child Health and Islam, Islamic Global Health Network: www.pitt.edu

Annex**Checklist to mitigate protection risks within a WASH programme****Key information:**

Below is a list of questions to ask when designing a WASH intervention that reduces protection risks.

1. General:

- How many people are affected and where are they? Disaggregate data by sex, age and diversity.¹⁰
- Are there significant cultural attitudes or gender dynamics that can affect the way the assistance can be provided?
- What water and sanitation practices were the population accustomed to before the emergencies?
- What are the threats for people affected and for the potential relief response? (include details) Are there special threats for women and girls?
- Who are key people to contact?
- Who are individuals or groups with specific needs within the community and why?
- Is there equal access to existing facilities for all?

2. Water supply:

- Are water collection points close enough to where people live? Are they safe?
- What traditional beliefs and practices relate to the collection storage and use of water?

3. Excreta disposal:

- What are the current beliefs and practices, including gender-specific practices, concerning excreta disposal?
- How do women manage sanitation issues related to menstruation? Are there appropriate materials or facilities available?

¹⁰ “Diversity” is used to define individuals and groups from a particular social and ethnic background. It can thus be for example ethnic and religious minorities but also groups with specific needs such as persons with disabilities, or unaccompanied and separated children. These groups differ from community to community and needs to be identified in an initial assessment of the population. See Part I.1 of the Handbook.



Part VI

DURABLE SOLUTIONS

*Photo Sven Torfinn/IOM 2006
IDPs going back home in South Sudan.*

Durable Solutions

1. What are durable solutions in the internal displacement context?

“Displacement shall last no longer than required by the circumstances”

Guiding Principles on Internal Displacement

Achieving a durable solution to internal displacement means that displaced persons enjoy their full spectrum of human rights and, as a result, they are able to rebuild their lives.

A solution to internal displacement can be achieved through one of three choices:

- **return** to the place of origin;
- **local settlement** in the area where displaced persons have taken refuge; or
- **settlement elsewhere in the country.**¹

But solutions can only be considered to be “**durable**” if a number of conditions are fulfilled.² These conditions include enjoying the protection of the State of nationality (citizens) or residence; the voluntariness of the decision to return or settle elsewhere; the prevalence of safety and security in areas of settlement or return; real prospects for restitution of or compensation for lost property; no discrimination in the enjoyment of their rights, and equal access to public services and economic opportunities.

Indeed, in some cases, it may be several years before internally displaced persons can achieve a durable solution. Political and security related factors, such as ongoing, armed conflict, will often hamper some durable solutions and may lead to protracted internal displacement. Whether conditions are ripe for achieving durable solutions will differ significantly in situations of protracted conflict and displacement compared to situations where peace and law-and-order have been restored. In general, finding out whether durable solutions to internal displacement have been achieved in a specific country requires a thorough analysis of the context, including by examining objective conditions and the process itself, and doing so for all segments of the internally displaced population.³

The fact that most displaced persons have returned or settled in safety and dignity in parts of their country does not mean that *all* internally displaced persons have found a durable solution. Ascertaining the individual achievement of a *durable* solution requires a similar analysis, but *on an individual level*, to verify whether a person is able to enjoy the full spectrum of human rights.

¹ The *Guiding Principles on Internal Displacement* refer to *two* solutions: “return” and “resettlement” in another part of the country. The latter option refers to settlement elsewhere in the country other than one’s place of origin. It encompasses the option of IDPs settling permanently in the locality where they first arrived while displaced as well as the possibility of moving to another part of the country altogether. Given that the term “resettlement” has a very specific meaning in the refugee context, as it refers to relocation *outside the country of asylum*, this Handbook refers to, and would generally recommend, that in contexts of internal displacement, the terms “local settlement” and “settlement elsewhere” be used instead.

² Cf. UNDG Guidance Note on Durable Solutions for Displaced Persons (refugees, internally displaced persons, and returnees), UNDG Programme Group, October 2004.

³ OCHA, the Representative of the Secretary-General on the Human Rights of Internally Displaced Persons, UNDP and UNCHR are developing guidance for Country Teams on how to undertake such analysis. This work is planned as a follow-up to the IASC Working Group decision of March 2007 to pilot the framework for Durable Solutions.

2. A solutions-oriented approach

Supporting durable solutions to internal displacement can never begin too early. Indeed, humanitarian action, including in the area of protection, must be inspired by this goal from the outset of any operation.

Humanitarian actors have an important role to play in post-conflict peace-building. Countries emerging from conflict and war often go through a phase of fragile and tenuous peace. Humanitarian interventions must contribute to support reconciliation between former warring parties and to support ongoing efforts to establish national reconciliation initiatives to bolster any fledgling peace process.⁴

Solutions for IDPs also need to be viewed and pursued in the context of overall economic development and broad-based approaches benefiting communities as a whole.⁵ Early implementation of development activities and close collaboration between governments, humanitarian and development actors is critically important to improve the living standards and the level of enjoyment of human rights of the population as a whole as well as the displaced. It will also equip and better prepare IDPs to fully make the transition to a durable solution through their eventual return home or settlement elsewhere in the country.

Development actors include not only those at the international level, such as UNDP, FAO, ILO, the bilateral development agencies, the World Bank and international NGOs, but also national development actors, including all those government ministries and other entities engaged in planning and delivery of social services.

Ensuring that the concerns of internally displaced persons are explicitly integrated into national and international post-conflict reconstruction efforts and long-term development plans is one key venue for building effective partnerships with development actors. Strategic tools in this context are *Common Country Assessments*, the *UN Development Assistance Framework* and *Poverty Reduction Strategy Papers*. Humanitarian actors should familiarize themselves with these tools and work through their respective country teams to ensure that the displacement perspective is incorporated in national reconstruction and development plans.

Supporting national authorities to establish and develop reliable national protection systems should also be a top priority of humanitarian actors in their efforts to reinforce the search for durable solutions. This may include support to human rights capacity-building efforts, support for judicial systems, setting up national human rights institutions, and providing technical cooperation to establish mechanisms for property restitution, compensation or other forms of reparation.⁶

The **Guidance Note on Durable Solutions for Displaced Persons**, (October 2004),⁷ prepared by the UN Development Group, recognizes the failure in the past to take an integrated approach to recovery and development plans, fully incorporating needs of displaced people. More worryingly, displaced persons have at times been presented as a burden, hampering the process toward development, rather than as a potential asset. However, this *Guidance Note* highlights that the return and integration of displaced persons reinforces peace processes and helps create stable and secure conditions that are essential for development objectives to be met. The Note

⁴ The Peace-building Commission, established by the General Assembly and Security Council, proposes integrated strategies for post-conflict peace-building and recovery and strengthens partnerships among national governments, the UN, civil society, the private sector and donors. (United Nations General Assembly Resolution 60/180, 30 December 2005, the Peace-building Commission.)

⁵ See *When Displacement Ends*, pp. 87-89 (Ibid note 4),

⁶ Cf. Part IV of this handbook. See also: *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams*, IASC, 2004, pp. 35-63.

⁷ UNGD Guidance Note on Durable Solutions for Displaced Persons (refugees, internally displaced persons, and returnees), October 2004.

includes a useful checklist of activities, which an inter-agency Humanitarian/Development Country Team should consider when trying to link short-term humanitarian relief with longer-term development strategies (see Annex 1 to part VI).

Ultimately, durable solutions to situations of internal displacement are linked to addressing the root causes of the conflict and displacement.⁸ Internal displacement is often a symptom of deeply rooted national problems. It is by addressing the root causes of conflict through political means and the promotion of justice, security and equality for all citizens that displacement is fully addressed.⁹

In order to address the causes of displacement it is important that all sectors of society, including the Government, international agencies, donors, non-governmental organizations, civil society and internally displaced persons be active participants in the process. To this end, the humanitarian and development community should engage in *transition strategies* focusing on peace building objectives, which aim at a balance between immediate and long-term needs, supporting increased national leadership and ownership of the recovery and reconstruction process. The *UN Transitional Strategy Guidance Note* provides guidance to Country Teams in this context.¹⁰

3. Operationalizing the *Framework for Durable Solutions*

A *Framework for Durable Solutions for Internally Displaced Persons*¹¹ has recently been developed to provide guidance in defining and realizing an end to internal displacement. Rather than aiming to determine whether an individual or a group no longer require protection or assistance, the Framework seems to place greater emphasis on areas where specific support may still be required for the achievement of durable solutions. The Framework suggests the analysis of both the **process** through which a solution needs to be pursued and the actual **conditions** that need to be fulfilled with respect to the individuals or groups who have returned to their area of origin, or settled elsewhere in the country (see Annex 2 at the end of the handbook).

Sections 3.1 and 3.2 below contain suggestions on ways in which humanitarian actors may contribute to support national actors both in achieving those *conditions* as well as establishing and implementing those *processes* respectively.

3.1 The *conditions* for achieving a durable solution

National responsibility for addressing internal displacement involves the duty to establish the conditions enabling durable solutions. This is affirmed in Principle 28 of the *Guiding Principles on Internal Displacement*.

⁸ *Finding Durable Solutions for IDPs: Guiding Principles on Internal Displacement and International Experiences of Voluntary Return, Resettlement and Reintegration*. Statement by Gimena Sanchez-Garzoli, (The Brookings-SAIS Project on Internal Displacement). Seminar/Workshop on Return Resettlement and Reintegration of IDPs in Colombia. Bogotá, Colombia, December 3, 2003.

⁹ *Profiles in displacement: Follow Up Mission to Colombia* by Francis M. Deng, Report of the RSG, UN Commission on Human Rights, UN Doc. E/CN.4/2000/83/Ad.1, 11 January, 2000, p. 31 and Statement Concerning the Proposal for a Law on Internal Displacement in Peru, by Francis M. Deng, RSG on IDPs, July 4, 2003.








¹⁰ The *UN Transitional Strategy Guidance note* should be used in parallel with the IASC Early Recovery cluster's note of guidance on Early Recovery. See www.humanitarianreform.org

¹¹ *When Displacement Ends, Framework for Durable Solutions for Internally Displaced Persons, Brookings Institution University of Bern Project on Internal Displacement, May 2007*. Annexed to this Handbook. Produced following a request from the Emergency Relief Coordinator and produced as the result of joint efforts by various academic, human rights institutions and NGOs who undertook extensive and broad-based consultations. The process was led by Susan Martin, the Brookings Institution, and completed under the guidance of the RSG on the Human Rights of Internally Displaced Persons, Mr. Walter Kaelin. The Framework was welcomed by the Inter-Agency Standing Committee's Working Group in 2007, which recommended its dissemination and use among humanitarian actors as a pilot initiative to be field-tested and revisited in one or two years.

Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, to allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

However, what constitutes these necessary enabling “conditions” for durable solutions is less clear. In an attempt to define them, the **Framework for Durable Solutions** has identified, based on the *Guiding Principles*, a **set of conditions that, when fulfilled, marks the achievement of a durable solution**. Guidance on how to achieve these conditions, which requires a wide ranging and multi-sectoral response, is provided in earlier chapters of the Handbook noted below.

Durable solutions to internal displacement will be achieved when persons formerly displaced have either returned home, settled locally or settled elsewhere in the country and:

- **do not suffer attacks, harassment, intimidation, persecution or any other form of punitive action upon return to their home communities, in their place of local integration or settlement in another location** (see Part V.3, Life, Safety and Security); 
- **are not subject to discrimination for reasons related to their displacement**
- **have full and non-discriminatory access to national and sub-national protection mechanisms, including police and courts** (see Part V.10, Access to Justice); 
- **have access to personal documentation, which is usually required to access public services, to vote and for administrative purposes** (see Part V.2 on Civil Status and Statelessness); 
- **have access to mechanisms for property restitution or compensation, regardless of whether they return or settle in the area where they found refuge or a new location** (see Part V.11, Land and Property); 
- **enjoy, without discrimination, an adequate standard of living, including shelter, health care, food, water and other means of survival** (see Part V.13, Shelter; V.15 Health; V.18 Food; V.19 Water and Sanitation; V.16 Livelihoods); 
- **have been able to reunite with family members if they choose to do so** (see Part V.9, Family Unity);  and
- **are able to exercise the right to participate fully and equally in public affairs** (see Part V.12, Political Participation). 

3.2. The processes for achieving durable solutions


In addition to assessing the conditions of displaced persons, the *Framework for Durable Solutions* emphasizes the need to think about the process through which solutions are pursued.

The State is responsible for providing an environment in which internally displaced persons can make **informed decisions about their choice** for a specific path which will take them to a durable solution. Regardless of whether a displaced person chooses to **return home, settle locally or settle elsewhere in the country**, the State has a responsibility to create the necessary conditions enabling this solution. It should also provide the required support for return or settlement in **safety and dignity**, including reintegration assistance.

The following matrix lists the process considerations identified in the Framework and suggests how the humanitarian and development community can support these processes.

BENCHMARKS
RELATING TO
PROCESSSUGGESTED ACTIONS TO SUPPORT THESE PROCESSES TOWARDS
DURABLE SOLUTIONS

IDPs are able to make an informed decision as to whether to return to their home communities, remain where they are, or settle elsewhere in the country.

- Always advocate for the maximum number of options for durable solutions to be made available to IDPs, not simply the choice to return.
- Ensure that IDPs have access to objective, accurate information on the prevailing conditions in areas of potential return or settlement, and that this information reaches all members of the IDP community, including those with no formal role in the power structures of the community, such as women, youth, older persons and children, as well as IDPs in different locations, including camps and non-camp settlements, rural and urban areas.
- Employ a variety of methods to disseminate information through mass-information campaigns, such as through radio and TV broadcasting, pamphlets, posters, and street drama. Be sure that this information is in a language and format that all IDPs, even illiterate persons, can understand. (see Part IV.6). 
- Monitor information campaigns, whether formal or informal, by national and/or local authorities and even IDP community leaders, and take immediate and decisive measures to counteract inaccurate public statements that are politically manipulative, such as those suggesting that IDPs have no choice of solution, or could raise false expectations, such as concerning conditions in the different locations or on the assistance to be provided. Before taking action, consider the implications of such approaches for the safety of IDPs and staff. Measures to be taken can include:
 - interventions with the local authorities or media;
 - discussions with the community on the objective situation in the areas concerned;
 - distributing pamphlets in the IDP settlements concerned that provide objective information.
- Obtain, in advance, a sense of the attitude and possible concerns of receiving communities. Ensure that IDPs are made aware of the situation and possible concerns of their respective receiving community. Support measures to address these concerns and build confidence among the community and returning or newly arriving IDPs.
- Ensure that decisions are made individually by all adult members of a family and that older persons' and children's views are heard as well. This can be achieved by undertaking surveys for return or relocation, dropping the use of the term "head-of-family" for assistance and opinion surveys, and ensuring that support to families is granted on the basis of consensus.

To the extent possible, arrangements have been made for IDP representatives to visit and assess conditions for return or settlement elsewhere.






- Ensure that visits to assess conditions for return or settlement elsewhere are organized by the local authorities well in advance so that IDPs can meet with key stakeholders and members of the communities where they wish to return or settle.
- Advocate with and provide support to the relevant institutions to ensure that IDP representatives, including persons of different ages, sex or backgrounds who wish to take part in such visits have access to the necessary documentation, means of transport and any other support that might be required for them to undertake such visits. This may involve measures such as day care for children whose parents wish to take part in the visits and appropriate meeting facilities for persons with disabilities.



	<ul style="list-style-type: none"> • Advocate for including representatives of receiving communities in the preparations for IDPs' visits to start fostering local ownership of the return or settlement and reintegration process. • Encourage discussions during the visits about identifying possible areas of settlement that meet the minimum conditions of protection and basic services. • Promote and ensure, to the extent possible, a humanitarian presence during the visits to foster discussions among all parties about what support IDPs and other affected communities might require for their (re)-integration. <i>(see Part IV.2).</i>  • Ensure in particular the early involvement of humanitarian and development actors is where IDPs wish to return to areas where the State or non-State actor in control might not be in a position to provide basic services or where returnees might not have immediate access to income-generating activities. Discussions should involve the Humanitarian Coordinator and leaders of relevant coordination structures, such as the Protection Cluster/Sector and Early Recovery network. <i>(see Part I.3).</i>  • Organize, to the extent feasible, informal exchanges between children from the IDP communities and communities of return or settlement, such as sporting or cultural events, to promote confidence and reconciliation among the communities.
<p>IDPs, including women, minorities and others who might not have representation, participate fully in the planning and management of return, local integration or settlement elsewhere in the country.</p>	<ul style="list-style-type: none"> • Ensure participatory planning that includes women, minorities, youth and older persons, and that all their views, which might vary widely, are considered <i>(see Part III.2).</i>  • Ensure that the results of participatory assessments relating to durable solutions are incorporated into national and international planning <i>(see Part III.1).</i>  • Support a dialogue between authorities (national and local) and IDP representatives to ensure that development plans take into account the views and (re-)integration needs of displaced populations. • Initiate programmes specifically designed to explain the return or settlement process to children, addressing their concerns, fears and expectations, and develop programmes to address these concerns both before and after return or settlement. • Ensure dialogue with the local communities, including representatives of religious institutions, women's groups and education committees, about concrete actions to make the planning and management of return/settlement as collaborative as possible between IDPs and receiving communities <i>(see Part III.1).</i>  • Promote transparency and accountability of national authorities and humanitarian agencies, through information-sharing and joint evaluations, regarding the programmes and budgetary allocations for durable solutions. <i>(see Part III.3).</i> 





No coercion (including physical force, harassment, intimidation, denial of basic services, or closure of IDP camps or facilities without an acceptable alternative) has been used to induce or to prevent return, local settlement or settlement elsewhere.






- Ensure that IDPs are informed of their right to voluntary return or settlement (see Part IV.6). 
- Monitor how durable solutions are promoted by the authorities, local communities, IDP leaders and the media, and are implemented, ensuring there is no coercion or pressure on IDPs (see Part IV.1). 
- Advocate assertively and in a timely manner against any cases of potential or actual forced return or settlement (see Part IV.3). 
- Advocate and intervene against the suspension of assistance in areas of displacement when it results in putting undue pressure on IDPs to opt for a particular solution against their will. Assistance in this case is not limited to food, but also education and vocational training (see Part IV.7). 
- Confirm voluntary return/settlement by ensuring the establishment of a system in which all adult IDPs sign a form attesting that their movement is voluntary prior to receiving transport assistance by national authorities and/or the international community.
- Provide space for individuals or groups to express their views about their chosen solution, particularly for those who do not agree with the view of the majority, including youth who, especially in protracted situations, often prefer to settle locally rather than return, as their parents might want. This is particularly important in highly politicized settings, where the issue of available durable solutions can be manipulated and misrepresented by different interest groups.
- Ensure that individuals who opt for different solutions than the majority in their community are protected and supported in their choices, including by ensuring they have access to accurate information on the support that will be available, and negotiating with local authorities to maintain existing support structures until those durable solutions are realized.
- Ensure the protection of IDPs' right to claim restitution of their land or property in areas of return, or compensation for its loss if restitution is not possible. Information on this right should be provided to all IDPs, concerned communities and the authorities through legal-advice activities or public-information programmes (see Part V.11). 

National authorities, with the support of the international community, when necessary, have taken appropriate measures to establish conditions, as well as provide the means, to enable IDPs to return voluntarily in safety and with dignity, locally integrate or settle voluntarily elsewhere in the country and to facilitate their (re)integration.




a. Establishing an enabling environment for solutions

- Advocate for measures to address the root causes of displacement, including the resolution of conflict. Where feasible, encourage actors with expertise in conflict resolution to promote dialogue between the different parties.
- Support the incorporation of the issue of solutions to displacement in peace negotiations and other political agreements.
- Ensure that the authorities have established effective law and order mechanisms in places of IDP return/settlement to prevent and respond rapidly to any incidents of violence or unrest. When required, support training for relevant authorities, including police and military, to manage such incidents in non-violent ways (see Part V.3). 
- Monitor IDPs and other affected communities' access to justice and national/local protection mechanisms. Provide support and guidance on how to access these mechanisms, including national human rights institutions (see Part V.10). 





- Support the restoration of local civil registries and other registries, if damaged or destroyed, that relate to IDPs' civil and legal status and their titles to land and other property. Doing so is critical to facilitate potential reintegration, family reunification, access to public services, and recovery of or compensation for land, housing and property. It will also contribute to the resolution of cases of statelessness (*see Part V.2*). 
- Support national authorities in developing and implementing mechanisms for restitution of or compensation for land and property. Ensure that national authorities deal with property disputes in a neutral, fair matter that also takes into account the needs and rights of the secondary occupiers. The utilization of local conflict resolution techniques to address such circumstances has proven to be effective in such situations (*see Part V.11*). 
- Support reconstruction and rehabilitation efforts, including of damaged housing and vital infrastructures for public services and livelihood support. Undertake advance planning with relevant IASC clusters/sectors, including early recovery, protection, food security/agriculture, and education, regarding specific areas of support that are vital at the early stages of reintegration and anticipate possible bottle-necks in or obstacles to essential support (*see Parts V.15 to 19*). 
- Arrange in advance for the rapid re-enrolment of returning/settling IDP children in local schools. Be sure that they are able to access education in a language they understand and that any educational achievements during displacement will be recognized. If required, help the schools cope with the new arrivals through food or cash-for-work programmes to increase the number of teachers, classroom facilities and improve sanitation (*see Part V.17*). 
- Help strengthen health centres, particularly to attend births, ensure uninterrupted treatment for chronically ill persons, provide emergency assistance, such as for injuries caused by landmines or other unexploded ordnance, and to provide psycho-social support (*see Part V.15 and IV.11*). 

b. Return to the area of origin/settlement in conditions of safety and with dignity




- Pre-position staff, transport, shelter materials and other supplies to support the return or settlement and (re-) integration of IDPs. To the extent possible, rely on local human resources and acquire local material and supplies to support local labor and businesses (*see Part IV.7 and V.16*). 
- In advance of return/settlement, support de-mining efforts by ensuring that mine surveys and de-mining activities are implemented, particularly along main roads, areas to be used by children on their way to and from school, and by women in their search for firewood, water or livelihood, and that mine-awareness programmes are offered to returning/settling IDPs (*see Part V.6*). 
- Support advance planning for the return of households with their productive asset, such as livestock, agricultural tools and equipment (*see Part V.16*). 
- Where Governments have developed a formal 'recognition' or documentation system for IDPs, ensure that no displaced person, including if never formally recognized or documented, is excluded from assistance to achieve durable solutions until the person has fully recovered from displacement and is once again a secure and self-sustaining productive citizen in society.
- Develop rapid-response mechanisms to assist those returning or settling spontaneously, to the extent possible.



- Monitor and, when safe to do so, accompany the return or settlement of IDPs to ensure the movement is voluntary and occurs in conditions of safety and with dignity. Where this is not the case, report the facts to the authorities and, if unresolved, to the international community (see Parts IV.1 and 2, and Part V.1) 
- Promote and support efforts to maintain family unity and to ensure family reunification throughout and after the return or relocation movements, while respecting the personal choice of adults who do not wish to remain or to reunite with their partners (see Part V.9). 

c. Facilitate (re) integration

c.1 Livelihood, early recovery and development

- Advocate the incorporation of support to IDP reintegration and to areas of return/settlement in development plans (CCA/UNDAF, Poverty Reduction Strategy Papers, national development plans).
- Stress the importance of prioritizing interventions aimed at achieving self-reliance, not only of IDPs but within the local community, including the most vulnerable, and advocate for development assistance for vocational and skills training, and technical assistance to develop small businesses, micro-finance schemes, etc (see Part V.16). 
- Promote the use of gender-sensitive, local labor-based methods to develop infrastructure so that cash is injected into the local community (see Part V.13). 
- Ensure that emergency assistance continues to be delivered at the same time as plans for development go forward (see Part IV.7). 
- Create a clear strategy and funding mechanisms for transitional programming.


c.2 Peace-building and promoting peaceful existence

- Support the establishment of national reconciliation initiatives, making sure there is national ownership to the process and that it involves all relevant stakeholders.
- In consultation with IDPs and the local community, support the design and implementation of programmes and activities that promote dialogue, peaceful coexistence and common goals among returning/settling IDPs and receiving communities.
- Enhance the capacity of local authorities to prevent and resolve inter-communal conflicts through peaceful means, such as arbitration or mediation, when receiving communities are opposed to the return or settlement of IDPs.
- Identify possibilities for immediate and medium-term multi-sectoral recovery and rehabilitation projects in previously damaged or politically marginalized areas where forced displacement has taken place and in return-impacted areas.


c.3 Capacity-building (see Part IV.4)

- Encourage development actors to enhance the capacity of all relevant central, regional and local authorities to carry out their long-term responsibility to support the (re-)integration of IDPs.
- Support the assessment of possible institutional options to manage IDP returns, relocations and reintegration regimes (dedicated ministry or department within existing ministry) and promote the creation of an inter-ministerial / departmental taskforce for reintegration.







- In collaboration with relevant international and national actors, encourage efforts to strengthen the rule of law in areas of IDP return/settlement, enhance the capacity of legal and judicial institutions, through technical and material support, and train local police and municipal authorities on freedom of movement and choice of residence as well as on the implications of the principle of non-discrimination.
- Support needs for strengthening civil society organizations as well as IDP and other affected communities in key areas of displacement and return (see *Part IV.10*). 
- Promote the inclusion of IDPs in local governance structures. Ensure that IDPs can exercise their right to political participation in areas of return/settlement.
- Support efforts by the national authorities and humanitarian and development actors to improve infrastructure and public services, such as schools, health facilities, public utilities and transportation, using labor-based approaches in receiving communities through Quick Impact Projects.

c.4 Ensuring reintegration support for groups with particular needs

- Support national institutions to identify specific needs within the returning or relocating population well in advance of the respective movements in order to develop targetted reintegration programmes in a timely manner.
- Advocate with development actors to establish sustainable support mechanisms for persons with specific needs, such as female-headed households, youth, the elderly, older persons, persons with disabilities and minorities, with the aim of improving their immediate well-being and promoting self-reliance.
- Ensure that the psycho-social needs of returning/settling IDPs, including children, are addressed (see *Part IV.11*). 
- Ensure that there are effective demobilization and reintegration programmes for former combatants, and work with receiving communities, including IDPs, to avoid stigmatization and exclusion. When necessary, ensure that children formerly associated with armed groups are given support for reintegration.
- Promote communication among different countries that have undergone similar IDP return/ settlement processes to exchange lessons learned and best practices.

National authorities grant and facilitate safe, unimpeded and timely access of humanitarian organizations and other relevant actors to assist IDPs (in achieving durable solutions)

- Advocate with national and other relevant authorities for safe, unimpeded and timely access by humanitarian, human rights and development actors, domestic as well as international, to areas of IDP return, settlement and reintegration (see *Part IV.2*). 
- Offer assistance, technical and material, to the authorities in planning, managing and implementing IDP return/settlement and reintegration projects, including in undertaking joint needs assessments (see *Parts IV.7, IV.4 and III.1*). 
- Indicate to the authorities to what extent and in what specific areas international assistance could be available to support IDP return/settlement and reintegration (see *Part IV.7*). 
- Ensure that IDPs have access to humanitarian organizations and other appropriate actors such as development agencies. Monitor any impediments they may face in this context (see *Parts IV.1 and IV.2*). 



References

- *Framework for Durable Solutions for Internally Displaced Persons*, Brookings Institution-University of Bern Project on Internal Displacement, May 2007. Annexed at the end of the handbook.
- *Guiding Principles on Internal Displacement*, English (original) plus translation into 40+ languages, available at: http://www.brookings.edu/fp/projects/idp/gp_page.htm. Annexed at the end of the handbook.
- *Implementing the Collaborative Response to Situations of Internal Displacement: Guidance for United Nations Humanitarian and/or Resident Coordinators and Country Teams*, IASC, 2004, pp. 35-63.
- *Guidance Note on Durable Solutions for Displaced Persons* (Refugees, Internally Displaced Persons, and Returnees), UNDG Programme Group, October 2004.
- *UN Transitional Strategy Guidance Note*, March 2007, available at www.humanitarianreform.org
- *IASC Early Recovery Cluster's note of guidance on Early Recovery*, available at www.humanitarianreform.org
- *Protection of conflict induced IDPs – Assessment for Action*, www.humanitarianreform.org
- United Nations General Assembly Resolution 60/180, 30 December 2005, the Peace-building Commission.

Annex 1

UNDG Guidance Note on Durable Solutions for Displaced Persons (Refugees, Internally Displaced Persons, and Returnees)

UNDG: New York, www.undg.org, 2004

POPULATIONS AND TARGET GROUPS

- Rapid development of demographic (age, gender, place of origin, ethnicity, etc.) and socio-economic profiles (professions, trades, skills, education, assets, etc.) of prospective returnee populations in neighbouring asylum countries, within Iraq and outside the region;
- Articulation of reintegration profiles of the returning population of working age (urban, rural, professional, skilled, semi-skilled, unskilled, women, men and youth); and
- Identification of particular vulnerabilities and disabilities within the returning population that may hinder reintegration.

PROBABLE RETURN AND REINTEGRATION DYNAMICS

- Formulation of probable scenarios for and quantification of return movements of refugees and IDPs (both spontaneous and assisted) to the northern, central and southern regions for the next 6, 12 and 36 months;
- Identification and profiling of populations considered most likely to move rapidly and spontaneously, and anticipation of seasonal surges (pre- and post-winter); and
- Broad assessment of absorption capacity in main anticipated areas of return and key challenges for immediate, short- and medium-term reintegration requirements in essential sectors (shelter, water, sanitation, food assistance, employment, health, education, winterization, etc).

INSTITUTIONAL AND CAPACITY DEVELOPMENT

- Overall assessment of existing national, governorate, and local institutions, resources and capabilities to manage the refugee and IDP return and reintegration process;
- Examination of possible institutional options to manage a refugee/IDP return and reintegration regime (dedicated ministry or department, lodging within existing ministry, e.g. Ministry of the Interior) and creation of an inter-ministerial/departmental task force for reintegration;
- Assessment of policy formulation capabilities and analytical skills and knowledge of refugee and displaced persons and of refugee and international humanitarian law within the existing public administration (central, governorate and local levels) and civil society;
- Identification of capacity development, infrastructure/hardware requirements and training needs at institutional, systemic and individual levels within existing and possibly new public institutions for: immediate return processing (documentation, permits, licenses, registration, etc.) and reintegration (protection, legal issues, mass information, communications and monitoring); and
- Evaluation of public management capabilities for designing, implementing and monitoring large relief, urgent rehabilitation and recovery programmes for returning displaced populations and assessment of short-term technical and material-assistance needs.

REINTEGRATION PROGRAMMING

Sectoral and thematic

- Assessment of key sectoral needs (shelter, water, sanitation, food assistance and security, employment, health, education, winterization, etc.) at the local level in identified areas of high return over the next 6, 12 and 36 months;

- Assessment of capacities and needs (technical, financial and human) to manage and address key protection issues (physical security and welfare, including threats from mines and unexploded ordnance, legal mechanisms and resources to recover land and property, family tracing and reunion, sensitive political affiliations, confessional and ethnic sensitivities, vulnerabilities and disabilities);
- Assessment of local economic, environmental and natural resource situation and additional needs in key return locations (urban and rural labour markets, state of local infrastructure (productive, marketing, energy, communications, sanitation and social), state of social services (health, education and welfare); and
- Assessment of development needs for strengthening civil society organizations and social capital at community level in key areas of displacement and return.

Intervention strategy and programme design

- Assessment of policy options for designing dedicated interventions for return- and displacement-affected areas and for mainstreaming return and reintegration concerns into national programmes;
- Assessment of possibilities for a public investment programme to create new or improve existing productive asset base (economic and social infrastructure) to build livelihood possibilities and social protection in return-impacted areas (north, centre and south) for returning refugees, IDPs and local populations;
- Assessment of possibilities for launching community-driven development programmes enhancing reintegration prospects through local governance and management of small-scale, community-level micro-projects in areas of high return;
- Identification of possibilities for immediate and medium-term multi-sectoral recovery and rehabilitation projects in previously damaged or politically marginalized areas where forced displacement has taken place;
- Assessment of labour-intensive emergency employment programmes, including affirmative action targeting policies to include returning refugees, IDPs and return-impacted areas;
- Assessment of the establishment of micro-finance institutions, savings and credit lines to support micro, family, and small enterprises in return areas;
- Assessment of the need for public safety nets, subsidies and food distribution among vulnerable returning and host community populations over the coming 6, 12 and 36 months;
- Assessment of needs to support an accessible justice programme (infrastructure, running costs for personnel and training) giving returnees and IDPs affordable access to legal advice centres for assistance with land and property recovery, civil problems, etc.; and
- Assessment of the public investment programmes for vocational and employment training and skills-development programmes for youth populations among returning refugee and IDPs.

Management arrangements, cost projections and budgeting

- Identification of optimum arrangements and requirements (organizational, personnel and technical assistance requirements) for the management and coordination of public investment programmes (labour-intensive works, infrastructure and area-based rehabilitation) at the governorate and local levels in return-impacted areas;
- Identification of locally based mechanisms and needs and external support (training and technical assistance) to develop and manage community-driven development programmes (micro-projects, community investments, credit, micro-finance and savings) in areas of high displacement and return; and
- Cost projections for both operating (personnel, salaries, expendable and non-expendable equipment, utilities, communications, etc.) and investment (capital inputs, materials, credit lines, training, etc.) for programmes outlined above in return-affected areas.



ANNEXES

*Photo Sijeewa de Silva/NRC
Family in an IDP camp in Sri Lanka.*

Annex 1

Guiding Principles on Internal Displacement

(U.N. Doc. E/CN.4/1998/53/Add2(1998))

Introduction - Scope and Purpose

1. These Guiding Principles address the specific needs of internally displaced persons worldwide. They identify rights and guarantees relevant to the protection of persons from forced displacement and to their protection and assistance during displacement as well as during return or resettlement and reintegration.
2. For the purposes of these Principles, internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.
3. These Principles reflect and are consistent with international human rights law and international humanitarian law. They provide guidance to:
 - (a) The Representative of the Secretary-General on internally displaced persons in carrying out his mandate;
 - (b) States when faced with the phenomenon of internal displacement;
 - (c) All other authorities, groups and persons in their relations with internally displaced persons; and
 - (d) Intergovernmental and non-governmental organizations when addressing internal displacement.
4. These Guiding Principles should be disseminated and applied as widely as possible.

Section I. General Principles

Principle 1

1. Internally displaced persons shall enjoy, in full equality, the same rights and freedoms under international and domestic law as do other persons in their country. They shall not be discriminated against in the enjoyment of any rights and freedoms on the ground that they are internally displaced.
2. These Principles are without prejudice to individual criminal responsibility under international law, in particular relating to genocide, crimes against humanity and war crimes.

Principle 2

1. These Principles shall be observed by all authorities, groups and persons irrespective of their legal status and applied without any adverse distinction. The observance of these Principles shall not affect the legal status of any authorities, groups or persons involved.
2. These Principles shall not be interpreted as restricting, modifying or impairing the provisions of any international human rights or international humanitarian law instrument or

rights granted to persons under domestic law. In particular, these Principles are without prejudice to the right to seek and enjoy asylum in other countries.

Principle 3

1. National authorities have the primary duty and responsibility to provide protection and humanitarian assistance to internally displaced persons within their jurisdiction.
2. Internally displaced persons have the right to request and to receive protection and humanitarian assistance from these authorities. They shall not be persecuted or punished for making such a request.

Principle 4

1. These Principles shall be applied without discrimination of any kind, such as race, colour, sex, language, religion or belief, political or other opinion, national, ethnic or social origin, legal or social status, age, disability, property, birth, or on any other similar criteria.
2. Certain internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Section II. Principles Relating to Protection From Displacement

Principle 5

All authorities and international actors shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, in all circumstances, so as to prevent and avoid conditions that might lead to displacement of persons.

Principle 6

1. Every human being shall have the right to be protected against being arbitrarily displaced from his or her home or place of habitual residence.
2. The prohibition of arbitrary displacement includes displacement:
 - (a) When it is based on policies of apartheid, “ethnic cleansing” or similar practices aimed at/or resulting in altering the ethnic, religious or racial composition of the affected population;
 - (b) In situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand;
 - (c) In cases of large-scale development projects, which are not justified by compelling and overriding public interests;
 - (d) In cases of disasters, unless the safety and health of those affected requires their evacuation; and
 - (e) When it is used as a collective punishment.
3. Displacement shall last no longer than required by the circumstances.

Principle 7

1. Prior to any decision requiring the displacement of persons, the authorities concerned shall ensure that all feasible alternatives are explored in order to avoid displacement altogether. Where no alternatives exist, all measures shall be taken to minimize displacement and its adverse effects.
2. The authorities undertaking such displacement shall ensure, to the greatest practicable extent, that proper accommodation is provided to the displaced persons, that such displacements are effected in satisfactory conditions of safety, nutrition, health and hygiene, and that members of the same family are not separated.
3. If displacement occurs in situations other than during the emergency stages of armed conflicts and disasters, the following guarantees shall be complied with:
 - (a) A specific decision shall be taken by a State authority empowered by law to order such measures;
 - (b) Adequate measures shall be taken to guarantee to those to be displaced full information on the reasons and procedures for their displacement and, where applicable, on compensation and relocation;
 - (c) The free and informed consent of those to be displaced shall be sought;
 - (d) The authorities concerned shall endeavour to involve those affected, particularly women, in the planning and management of their relocation;
 - (e) Law enforcement measures, where required, shall be carried out by competent legal authorities; and
 - (f) The right to an effective remedy, including the review of such decisions by appropriate judicial authorities, shall be respected.

Principle 8

Displacement shall not be carried out in a manner that violates the rights to life, dignity, liberty and security of those affected.

Principle 9

States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists and other groups with a special dependency on and attachment to their lands.

Section III. Principles Relating to Protection During Displacement

Principle 10

1. Every human being has the inherent right to life which shall be protected by law. No one shall be arbitrarily deprived of his or her life. Internally displaced persons shall be protected in particular against:
 - (a) Genocide;
 - (b) Murder;
 - (c) Summary or arbitrary executions; and
 - (d) Enforced disappearances, including abduction or unacknowledged detention, threatening or resulting in death.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

2. Attacks or other acts of violence against internally displaced persons who do not or no longer participate in hostilities are prohibited in all circumstances. Internally displaced persons shall be protected, in particular, against:

- (a) Direct or indiscriminate attacks or other acts of violence, including the creation of areas wherein attacks on civilians are permitted;
- (b) Starvation as a method of combat;
- (c) Their use to shield military objectives from attack or to shield, favour or impede military operations;
- (d) Attacks against their camps or settlements; and
- (e) The use of anti-personnel landmines.

Principle 11

1. Every human being has the right to dignity and physical, mental and moral integrity.
2. Internally displaced persons, whether or not their liberty has been restricted, shall be protected in particular against:
 - (a) Rape, mutilation, torture, cruel, inhuman or degrading treatment or punishment, and other outrages upon personal dignity, such as acts of gender-specific violence, forced prostitution and any form of indecent assault;
 - (b) Slavery or any contemporary form of slavery, such as sale into marriage, sexual exploitation, or forced labour of children; and
 - (c) Acts of violence intended to spread terror among internally displaced persons.

Threats and incitement to commit any of the foregoing acts shall be prohibited.

Principle 12

1. Every human being has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention.
2. To give effect to this right for internally displaced persons, they shall not be interned in or confined to a camp. If in exceptional circumstances such internment or confinement is absolutely necessary, it shall not last longer than required by the circumstances.
3. Internally displaced persons shall be protected from discriminatory arrest and detention as a result of their displacement.
4. In no case shall internally displaced persons be taken hostage.

Principle 13

1. In no circumstances shall displaced children be recruited nor be required or permitted to take part in hostilities.
2. Internally displaced persons shall be protected against discriminatory practices of recruitment into any armed forces or groups as a result of their displacement. In particular any cruel, inhuman or degrading practices that compel compliance or punish non-compliance with recruitment are prohibited in all circumstances.

Principle 14

1. Every internally displaced person has the right to liberty of movement and freedom to choose his or her residence.

2. In particular, internally displaced persons have the right to move freely in and out of camps or other settlements.

Principle 15

Internally displaced persons have:

- (a) The right to seek safety in another part of the country;
- (b) The right to leave their country;
- (c) The right to seek asylum in another country; and
- (d) The right to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk.

Principle 16

1. All internally displaced persons have the right to know the fate and whereabouts of missing relatives.

2. The authorities concerned shall endeavour to establish the fate and whereabouts of internally displaced persons reported missing, and cooperate with relevant international organizations engaged in this task. They shall inform the next of kin on the progress of the investigation and notify them of any result.

3. The authorities concerned shall endeavour to collect and identify the mortal remains of those deceased, prevent their despoliation or mutilation, and facilitate the return of those remains to the next of kin or dispose of them respectfully.

4. Grave sites of internally displaced persons should be protected and respected in all circumstances. Internally displaced persons should have the right of access to the grave sites of their deceased relatives.

Principle 17

1. Every human being has the right to respect of his or her family life.

2. To give effect to this right for internally displaced persons, family members who wish to remain together shall be allowed to do so.

3. Families which are separated by displacement should be reunited as quickly as possible. All appropriate steps shall be taken to expedite the reunion of such families, particularly when children are involved. The responsible authorities shall facilitate inquiries made by family members and encourage and cooperate with the work of humanitarian organizations engaged in the task of family reunification.

4. Members of internally displaced families whose personal liberty has been restricted by internment or confinement in camps shall have the right to remain together.

Principle 18

1. All internally displaced persons have the right to an adequate standard of living.

2. At the minimum, regardless of the circumstances, and without discrimination, competent authorities shall provide internally displaced persons with and ensure safe access to:

- (a) Essential food and potable water;
- (b) Basic shelter and housing;
- (c) Appropriate clothing; and
- (d) Essential medical services and sanitation.

3. Special efforts should be made to ensure the full participation of women in the planning and distribution of these basic supplies.

Principle 19

1. All wounded and sick internally displaced persons as well as those with disabilities shall receive to the fullest extent practicable and with the least possible delay, the medical care and attention they require, without distinction on any grounds other than medical ones. When necessary, internally displaced persons shall have access to psychological and social services.

2. Special attention should be paid to the health needs of women, including access to female health care providers and services, such as reproductive health care, as well as appropriate counselling for victims of sexual and other abuses.

3. Special attention should also be given to the prevention of contagious and infectious diseases, including AIDS, among internally displaced persons.

Principle 20

1. Every human being has the right to recognition everywhere as a person before the law.

2. To give effect to this right for internally displaced persons, the authorities concerned shall issue to them all documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. In particular, the authorities shall facilitate the issuance of new documents or the replacement of documents lost in the course of displacement, without imposing unreasonable conditions, such as requiring the return to one's area of habitual residence in order to obtain these or other required documents.

3. Women and men shall have equal rights to obtain such necessary documents and shall have the right to have such documentation issued in their own names.

Principle 21

1. No one shall be arbitrarily deprived of property and possessions.

2. The property and possessions of internally displaced persons shall in all circumstances be protected, in particular, against the following acts:

- (a) Pillage;
- (b) Direct or indiscriminate attacks or other acts of violence;
- (c) Being used to shield military operations or objectives;
- (d) Being made the object of reprisal; and
- (e) Being destroyed or appropriated as a form of collective punishment.

3. Property and possessions left behind by internally displaced persons should be protected against destruction and arbitrary and illegal appropriation, occupation or use.

Principle 22

1. Internally displaced persons, whether or not they are living in camps, shall not be discriminated against as a result of their displacement in the enjoyment of the following rights:

- (a) The rights to freedom of thought, conscience, religion or belief, opinion and expression;

- (b) The right to seek freely opportunities for employment and to participate in economic activities;
- (c) The right to associate freely and participate equally in community affairs;
- (d) The right to vote and to participate in governmental and public affairs, including the right to have access to the means necessary to exercise this right; and
- (e) The right to communicate in a language they understand.

Principle 23

1. Every human being has the right to education.
2. To give effect to this right for internally displaced persons, the authorities concerned shall ensure that such persons, in particular displaced children, receive education which shall be free and compulsory at the primary level. Education should respect their cultural identity, language and religion.
3. Special efforts should be made to ensure the full and equal participation of women and girls in educational programmes.
4. Education and training facilities shall be made available to internally displaced persons, in particular adolescents and women, whether or not living in camps, as soon as conditions permit.

Section IV. Principles Relating to Humanitarian Assistance

Principle 24

1. All humanitarian assistance shall be carried out in accordance with the principles of humanity and impartiality and without discrimination.
2. Humanitarian assistance to internally displaced persons shall not be diverted, in particular for political or military reasons.

Principle 25

1. The primary duty and responsibility for providing humanitarian assistance to internally displaced persons lies with national authorities.
2. International humanitarian organizations and other appropriate actors have the right to offer their services in support of the internally displaced. Such an offer shall not be regarded as an unfriendly act or an interference in a State's internal affairs and shall be considered in good faith. Consent thereto shall not be arbitrarily withheld, particularly when authorities concerned are unable or unwilling to provide the required humanitarian assistance.
3. All authorities concerned shall grant and facilitate the free passage of humanitarian assistance and grant persons engaged in the provision of such assistance rapid and unimpeded access to the internally displaced.

Principle 26

Persons engaged in humanitarian assistance, their transport and supplies shall be respected and protected. They shall not be the object of attack or other acts of violence.

Principle 27

1. International humanitarian organizations and other appropriate actors when providing assistance should give due regard to the protection needs and human rights of internally displaced persons and take appropriate measures in this regard. In so doing, these organizations and actors should respect relevant international standards and codes of conduct.

2. The preceding paragraph is without prejudice to the protection responsibilities of international organizations mandated for this purpose, whose services may be offered or requested by States.

Section V. Principles Relating to Return, Resettlement and Reintegration

Principle 28

1. Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country. Such authorities shall endeavour to facilitate the reintegration of returned or resettled internally displaced persons.

2. Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.

Principle 29

1. Internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

2. Competent authorities have the duty and responsibility to assist returned and/or resettled internally displaced persons to recover, to the extent possible, their property and possessions which they left behind or were dispossessed of upon their displacement. When recovery of such property and possessions is not possible, competent authorities shall provide or assist these persons in obtaining appropriate compensation or another form of just reparation.

Principle 30

All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.

Annex 2

When Displacement Ends: A Framework for Durable Solutions for Internally Displaced Persons

Brookings-Bern Project on Internal Displacement, June 2007

Internal displacement “shall last no longer than required by the circumstances,” the Guiding Principles on Internal Displacement stipulate. It is now well recognized that to be internally displaced is to be exposed to a range of particular risks and vulnerabilities, even if it does not create a legal status. Bringing an end to this precarious plight is critically important. However, if decided prematurely, it can have serious ramifications. There consequently has to be an understanding of how to define and realize this end in a manner that respects the safety and security of the displaced.

Providing solutions to IDPs and ensuring their protection and assistance primarily lie with national authorities and, where applicable, with non state actors who control a given territory. This Framework should enable humanitarian organizations to assist the relevant authorities and non state actors to take on this responsibility. Its purpose is also to assist them and the displaced themselves to determine whether durable solutions to internal displacements have been found and, if not, to identify what is still required towards reaching that goal. The Framework addresses those displaced by conflict, human rights abuses and natural or human-made disasters. It may also provide guidance to those displaced by development projects although in such situations return most often is not possible and, in addition, special guidelines on resettlement exist.¹ The Framework does not aim to address the question of disengagement of humanitarian organizations specifically, which is a operational and mandate driven decision, although the achievement of durable solutions can be a criterion for it.

Currently, there is no consensus as to when to stop considering someone as an internally displaced person (IDP). Because identification as an IDP does not confer a special status under international law there is no cessation clause as for refugees. For some, internal displacement ends only upon the reversal of displacement, that is, upon IDPs’ return to their place of origin. In many cases, such return can occur only when the causes of the displacement have been resolved. However because return is not always possible or even desired by IDPs, this can lead to a situation where internal displacement holds little prospect of ever ending, and instead is an “identity” passed down from one generation to the next, which can impede their integration and even undermine their rights. At the other extreme, internal displacement may abruptly be deemed to have ended. It may, for instance, be in the interest of a government to claim there are no longer any IDPs in the country, in an effort to give the appearance of a return to normalcy and to direct international scrutiny elsewhere. Or, resources may dictate who is considered an IDP, with displacement “ending” when funding ends. To end specific actions for IDPs prematurely may lead to some IDPs’ particular protection needs being neglected, without having found a durable solution.

As prevention, which should be the first priority, is not always successful, there is a need to find durable solutions for the displaced, once their forced displacement has occurred. Three types of durable solutions to internal displacement exist: return to the place of origin, local integration in the areas in which IDPs initially take refuge or settlement in another part of the country, the

¹ See World Bank, Operational Policy on Involuntary Resettlement OP 4.12 Involuntary Resettlement, December 2001 for more information about the processes to be followed in cases of development-induced displacement.

latter two being termed “resettlement” by the Guiding Principles on Internal Displacement.⁴ In order to be considered durable, they must be based on three elements, long-term safety and security, restitution of or compensation for lost property and an environment that sustains the life of the former IDPs under normal economic and social conditions.²

Displacement ends when one of these durable solutions occurs and IDPs no longer have needs specifically related to their displacement. This does not mean that they may not continue to have a need for protection and assistance, but their needs would be no different from other similarly situated citizens. Having found a durable solution, formerly displaced persons continue to be protected by human rights law and, if applicable, by international humanitarian law (IHL). Consequently, they continue to have all of the rights of citizens, and the international community should support these rights on the same basis as others in the country. The fact that a person is no longer being considered an IDP shall have no repercussions for the enjoyment of her or his citizen’s and human rights, and, when applicable, the protection offered by IHL, including the right to seek redress/compensation, or the right not to be discriminated against because of having been displaced. The end of displacement is achieved when the persons concerned no longer have specific protection and assistance needs related to their having been displaced, and thus can enjoy their human rights in a non-discriminatory manner vis-à-vis citizens who were never displaced. In order to assess whether this situation has been achieved, an analysis of the individual’s access to rights needs to take place for each situation.

Internal displacement does not generally end abruptly. Rather, ending displacement is a process through which the need for specialized assistance and protection diminishes. Sometimes, for long periods after return, those who have been displaced may find themselves in markedly different circumstances and with different needs than those who never left their home communities. For example, claims to their property may not be adjudicated immediately, leaving them without shelter or a means of livelihood in places of return. Similarly, those who are settled elsewhere may require humanitarian and financial aid until they are able to obtain shelter and employment in their new location. Even in the context of a durable peace agreement, insecurity may continue to pose problems for uprooted populations, particularly if there are resentments and conflicts between returning, locally integrated or settled IDP populations and the already resident population. Under these circumstances, even if the people have returned, they still have residual displacement related problems and are therefore of concern.

The right of IDPs to make informed and voluntary decisions as to whether they want to return, or settle and integrate at the place where they found refuge or elsewhere, is one of the cornerstones of the Guiding Principles, and must be ensured. Though freedom of movement is a fundamental human right, it can be restricted and the right to determine where one lives is not absolute. There may be situations in which national authorities may determine that conditions are too unsafe to permit return or settlement in a specific location (for example, imperative military reasons or a natural or human-made disaster has made an area uninhabitable). However, every effort should be made to ensure that the decision to choose a durable solution is voluntary and that the decisions of individual IDPs whether to return home or settle elsewhere must be respected and facilitated.

Deciding that displacement has ended contains both subjective and objective aspects. IDPs may continue to see themselves as displaced long after national authorities and international observers may determine that their situation has been resolved using a set of objective criteria. Conversely, IDPs may see their displacement at an end upon returning home, even though a more objective analysis would indicate that they remain vulnerable as persons who have been

² Guiding Principles 28-30 spell out the rights of IDPs and responsibilities of competent authorities relating to return, resettlement and reintegration. Since former IDPs should not be disadvantaged relative to those who are still displaced, the Guiding Principles relating to protection from displacement, protection during displacement, and humanitarian assistance apply, where appropriate, after return or resettlement.

previously uprooted and who would continue to need protection and assistance as returnees, locally integrated or persons who have settled elsewhere in their country.

To determine whether and to what extent a durable solution has been achieved it is necessary to examine both the *processes* through which solutions are found and the actual *conditions* of the returnees and those persons who have integrated locally or settled elsewhere in the country. In general, it is important to consider whether 1) the national authorities have established the conditions conducive to safe and dignified return or settlement elsewhere; 2) formerly displaced persons are able to assert their rights on the same basis as other nationals; 3) international observers are able to provide assistance and monitor the situation of the formerly displaced; and ultimately, 4) the durable solution is sustainable. It is important to note that there is no clear or magic formula for deciding that displacement or the need for assistance or protection has ended. Rather, the totality of the situation must be assessed and consultation with all relevant stakeholders be a part of the process.

The Framework is presented in two sections. First are the processes through which durable solutions to displacement are determined to have been achieved, and second are the conditions that mark a durable solution to displacement.

Process

IDPs are able to make an informed decision as to whether to return to their home communities, remain where they are, or settle elsewhere in the country³. The information needed to make an informed decision has to be in a language understood by the IDPs and, at a minimum, includes:

- General situation in the community of origin or settlement, including the political situation, safety and security, freedom of movement, amnesties or legal guarantees, human rights situation, legal and other mechanisms to protect the rights of women, children, youth, minorities, older people, type and duration of assistance available to them, etc. This includes objective information as to whether the causes of displacement have been resolved, and if they have not been resolved, a realistic assessment as to the prospects for resolution and the efficacy of risk reduction mechanisms in place. Information should also be provided on what mechanisms have been put in place in order to ensure a smooth (re-)integration of the IDPs with the local population.
- The procedures for returning, integrating locally or settling elsewhere, including information on what items the IDPs can take with them, what documents they will need, what type of transport will be available, what arrangements if any have been made for those with special needs, what if any reintegration package will be provided, any necessary administrative requirements to stay where they are, etc.
- The conditions on return, local integration or settlement in another part of the country, including access to housing, land, livelihoods, information on mine risks, employment and other economic opportunities; availability of public services (public transport, healthcare, education, etc.); conditions of buildings and infrastructure for schools, health clinics, roads, bridges and sanitation systems; and assistance available from national, international and private agencies.

IDPs, including women, minorities and others who may not have representation, participate fully in the planning and management of return, local integration or settlement elsewhere in the country.⁴ To ensure full and appropriate participation of the internally displaced in decision-making, planning and management, such participation in

³ Principle 28.2 requires that “Special efforts should be made to ensure the full participation of internally displaced persons in the planning and management of their return or resettlement and reintegration.”

⁴ In line with international human rights law, durable solutions for displaced children must be in the best interest of the child.

decisions may take place in the context of community meetings, social and other service delivery, feeding centers, skills training and income generating programs, and other environments in which the displaced gather. Involvement of staff of NGOs in outreach may help ensure broader participation. In urban areas where internally displaced persons have spontaneously relocated, special efforts will be needed to ensure that they receive notice of consultations and gain access to information. Those who have spontaneously returned, locally integrated or settled elsewhere should also be consulted about continuing assistance or protection needs. The use of mass media may be the most effective way to reach spontaneously settled individuals.

To the extent possible, arrangements have been made for IDP representatives to visit and assess conditions for return or settlement elsewhere. These visits should include women and men as well as a broad representation of ethnic, racial, religious and political groups. The visits should include opportunities for consultations with populations already residing in the potential return or settlement communities in order to identify issues that may lead to conflict.

No coercion—including physical force, harassment, intimidation, denial of basic services, or closure of IDP camps or facilities without an acceptable alternative—has been used to induce or to prevent return, local integration or settlement elsewhere. As stated above, there may be situations in which national authorities are justified in determining that return is impossible, at least for the time being or in the near future. For the most part, however, the use of coercive measures to prevent or induce return, settlement, or local integration undermines the principle of voluntariness, which is essential to ensure the protection of the rights of IDPs.⁵ As stated in the *Handbook for Applying the Guiding Principles*, “Internally displaced persons have the rights to be protected against forcible return to or resettlement in any place where their life, safety, liberty, and/or health would be at risk. Just as the principle of non-refoulement (the prohibition against forced return to their home countries) is the most important right for refugees, protection from forced returns is also essential for protecting internally displaced persons. This principle has particular importance for internally displaced persons because it is the loss of their ability to remain in their original homes that characterizes their plight. Further depriving them of their right to seek safety adds even greater injury to them.”

National authorities, where appropriate with the support of the international community, have taken appropriate measures to establish conditions, as well as provide the means, to enable IDPs to return voluntarily, in safety and dignity, or to resettle voluntarily in another part of the country and to facilitate the (re)integration of returned or resettled IDPs.⁶ The primary responsibility for ensuring that IDPs do not face dangers to their physical safety and security rests with national authorities. Countries in transition from conflict or natural disasters may need assistance from the international community (see below) in establishing such conditions.

In practical terms, the responsibility of national authorities includes: taking measures to ensure respect for human rights and humanitarian law; providing safe transit for internally displaced persons; and offering adequate assistance and protection of physical safety upon relocation. In conflict situations, practical measures include seeking peaceful resolution of conflicts; where appropriate, national authorities may need to pay special attention to landmines and unexploded ordinance that may pose a danger to IDPs and/or disarm militias or civilians

⁵ Guiding Principle 28 emphasizes that IDPs should be able “to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.”

⁶ Guiding Principle 28.1 states that “Competent authorities have the primary duty and responsibility to establish conditions, as well as provide the means, which allow internally displaced persons to return voluntarily, in safety and with dignity, to their homes or places of habitual residence, or to resettle voluntarily in another part of the country.”

carrying arms. In the case of natural disasters, national authorities will need to take measures to reduce vulnerability of returnees and the general population from future disasters.

National authorities grant and facilitate safe, unimpeded and timely access of humanitarian organizations and other relevant actors to assist IDPs to return, locally integrate or settle elsewhere in the country.⁷ International and national humanitarian organizations and other relevant actors can play an important role in assisting return, local integration or settlement elsewhere in the country. In some cases, memoranda of understanding signed by national and local authorities, humanitarian organizations and representatives of the internally displaced may be a useful way to spell out the understandings and obligations of all parties involved in finding solutions to the displacement. Humanitarian organizations and other appropriate actors can also play an important role in assessing the safety and security of internally displaced persons who have returned, integrated locally or settled elsewhere in the country. Assessments should take into account gender-specific violence and exploitation connected to displacement as well as threats specific to children and to other groups with particular protection concerns.

Conditions

Formerly displaced persons do not suffer attacks, harassment, intimidation, persecution or any other form of punitive action upon return to their home communities or settlement in other locations. Attacks or other acts of violence against internally displaced persons are prohibited in all circumstances. Evidence that former IDPs are not subject to such attacks or other punitive actions is an essential condition that a durable solution has been achieved. In the case of conflict situations, it is particularly important to determine that former IDPs are not physically endangered by landmines, unexploded ordinances, small arms or other violence perpetrated by combatants.

Formerly displaced persons are not subject to discrimination for reasons related to their displacement.⁸ This provision has two components. First, displacement ends when returnees and settled or locally integrated persons do not face discrimination because they had been displaced in the past. Second, for the solution to be sustainable, displacement can be said to have ended only if the reasons that induced past and may induce future displacement have ended. These include discrimination based on race, religion, nationality, ethnicity, membership in a particular social group, political opinion or gender.

Formerly displaced persons have full and non-discriminatory access to national and sub-national protection mechanisms, including police and courts. Although law enforcement and judicial systems in rural areas, or in countries in transition from conflict or severely affected by disasters, may not be sufficiently developed, it is important that IDPs have access on a par with other residents to national protection mechanisms and progress be made towards establishing effective courts and police in areas of return, settlement, or local integration. In cases where durable solutions are being sought for IDPs due to conflict, formerly displaced persons have full and non-discriminatory access to local reconciliation mechanisms, as well as reparation for having been the victims of gross violations of their human rights, in particular of having being forcibly displaced.⁹

⁷ Guiding Principle 30 specifies that, “All authorities concerned shall grant and facilitate for international humanitarian organizations and other appropriate actors, in the exercise of their respective mandates, rapid and unimpeded access to internally displaced persons to assist in their return or resettlement and reintegration.”

⁸ Guiding Principle 29.1 states that internally displaced persons who have returned to their homes or places of habitual residence or who have resettled in another part of the country shall not be discriminated against as a result of their having been displaced. They shall have the right to participate fully and equally in public affairs at all levels and have equal access to public services.

⁹ See Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, GA Resolution 60/147 of 16 December 2005

Formerly displaced persons have access to personal documentation, which typically is needed to access public services, to vote and for administrative purposes. To give effect to the right for internally displaced persons to recognition before the law, it is important that the formerly displaced have access to documents necessary for the enjoyment and exercise of their legal rights, such as passports, personal identification documents, birth certificates and marriage certificates. Women and men have equal rights to obtain such necessary documents and have the right to have such documentation issued in their own names. Such documentation in fact should be issued earlier, as soon as an IDP needs them.¹⁰

Formerly displaced persons have access to mechanisms for property restitution or compensation regardless of whether they return or settle in the area where they found refuge or a new location.¹¹ These standards apply to all residential, agricultural and commercial property. The right to restitution or compensation extends to all displaced persons—including men, women and children—who have lost ownership of or access to their property, whether they have formal or informal titles. It also includes those who stand to inherit property from deceased family members who were displaced. The process through which property restitution and compensation is made can be complex and may take time. It is not necessary for it to be fully achieved before IDPs are determined to have found a durable solution if they have access to procedures for property restitution and compensation, including traditional property dispute mechanisms, and are able to reside safely and securely during the interim. It should be emphasized that those determined to have found durable solutions do not lose their claim to restitution or compensation because their displacement has ended – property rights, like all human rights, remain in effect an entitlement of former IDPs. Alternative solutions should be found for temporary occupants of IDP property who are being evicted in the course of property restitution, in particular if they are displaced persons themselves. Appropriate solutions should be found for persons who lost their tenancy rights in the course of displacement. The problems that women may face in obtaining recognition of their ownership or access to the property need special attention, particularly where there are legal barriers to female inheritance of property.

Formerly displaced persons enjoy without discrimination an adequate standard of living, including shelter, health care, food, water and other means of survival.¹² National authorities have the principal responsibility to ensure that those who return, integrate locally or settle elsewhere in the country have access, on a sustainable basis, to essential food and potable water, basic shelter and housing, and essential medical services and sanitation. Humanitarian organizations may be called upon to help ensure that these basic needs are met. Initially, IDPs may have needs for assistance to obtain the means of survival that differ significantly from that of the resident population. However, if adequate attention is being paid to their specific situation, the needs of IDPs are likely to resemble that of other residents over time. To the extent that the needs merge, the continuation of IDP-specific programs could become discriminatory towards the other residents. It should be emphasized, however, that since the formerly displaced retain their rights, along with other citizens, to an adequate standard of living, development programs to help them achieve such a standard will be warranted.

More specifically, formerly displaced persons will have access without discrimination to:

- **Employment opportunities and income generation.** Return, settlement and local integration often occur in circumstances of high unemployment and fragile economies. This benchmark does not mean that all formerly displaced persons must be employed

¹⁰ Guiding Principle 20 spells out the rights of IDPs to documentation.

¹¹ Guiding Principle 29.2 spells out the responsibilities of competent authorities regarding property restitution and compensation.

¹² Guiding Principle 28 states “[Competent] authorities shall endeavor to facilitate the reintegration of returned or resettled internally displaced persons.” Guiding Principle 29.1 specifies that returnees and resettled persons “shall have the right to have equal access to public services.”

before considering displacement to have ended. Nor does it require that IDPs regain their previous livelihood. Rather, displacement ends when IDPs have no barriers to employment and income generation opportunities that relate specifically to their displacement.

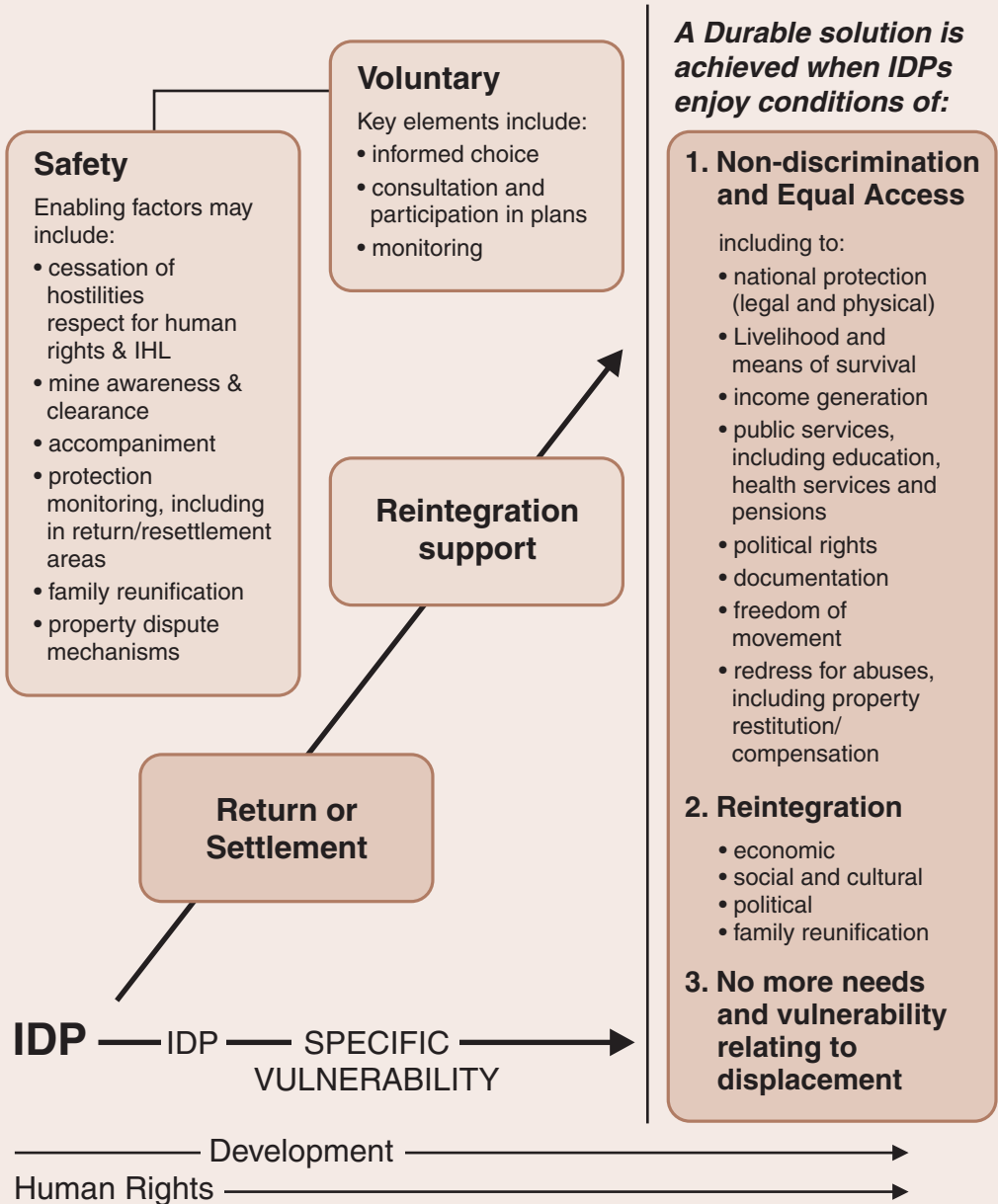
- **Basic public services**, including education, health services and pensions. Similarly, the key to determining whether IDPs have such access is whether there are barriers related to their displacement that bar them from using services that are available to other residents of the community. Replacement of personal documentation, as noted earlier, is often essential in order for IDPs to regain access to public services.

Formerly displaced persons have been able to reunite with family members if they choose to do so. Families separated by displacement should be reunited as quickly as possible, particularly when children are involved.

Formerly displaced persons are able to exercise the right to participate fully and equally in public affairs.¹³ This includes the right to associate freely and participate equally in community affairs, to vote and to stand for election, as well as the right to participate in public affairs, and have access to public institutions, in a language they understand.

¹³ Guiding Principle 29.1 specifies that internally displaced persons “shall have the right to participate fully and equally in public affairs at all levels” upon their return or resettlement. IDPs also have this right while displaced (see Guiding Principle 22 (d)).

Annex: Benchmarks for Durable Solutions for IDPs - Flowcharts



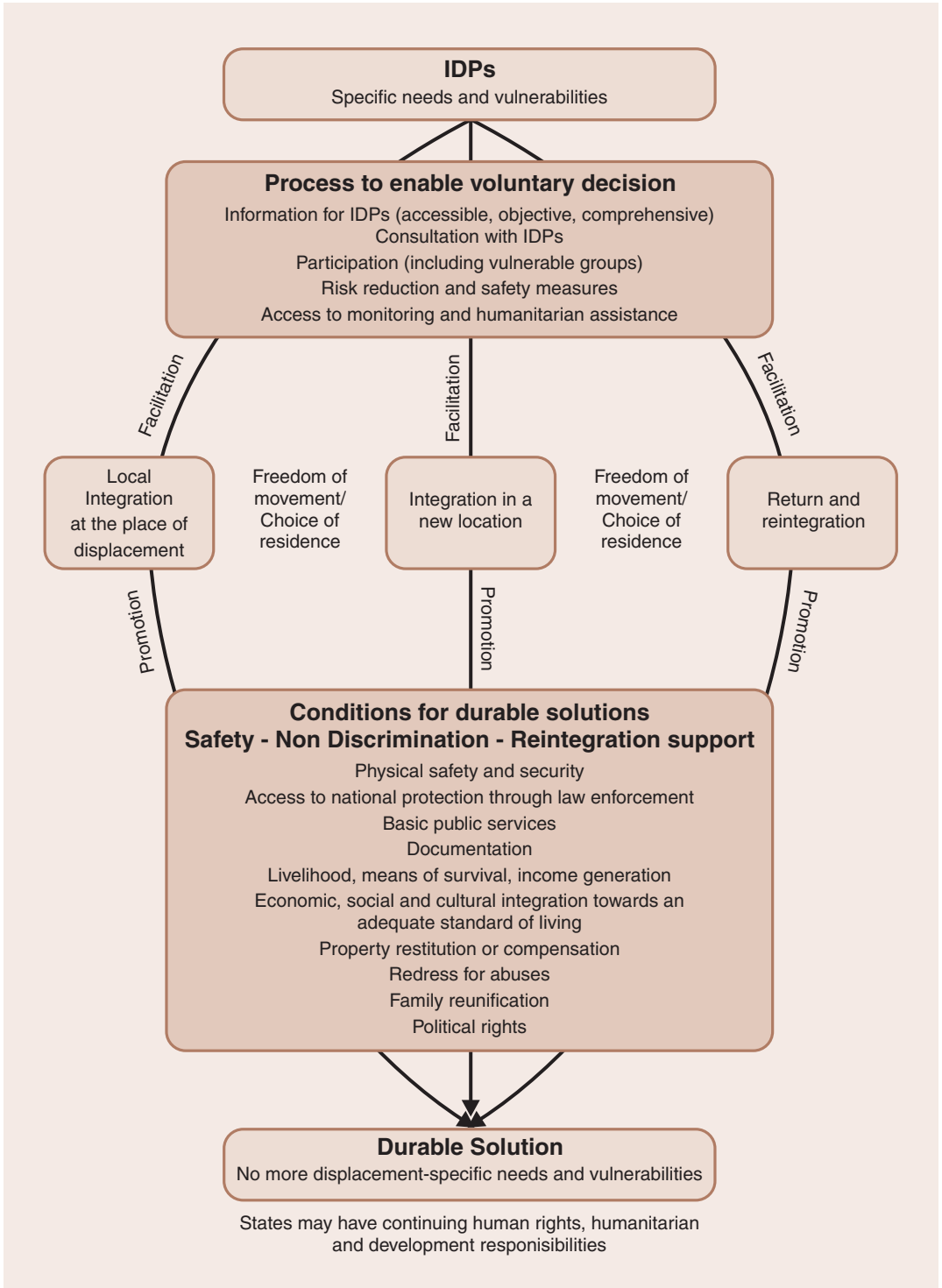




Photo front cover: UNHCR / H.Caux 2007, Displaced Chadian women collect small fish in a pool in the waddi near Dogdore.
Photo back cover: Roald Høvring/NRC, Women bringing wood back to an IDP camp in Darfur.