10 octobre 2023

Points clés

- Familiarize yourself with the political dynamics, capacities and institutional arrangements of the host government wherever these are relevant to the emergency response.
- Understand other UN agencies' engagement with the government and identify synergies and complementarities.
- In refugee situations, the UNHCR Representative or most senior UNHCR official in the country has an important role in direct advocacy with high-level government authorities.
- Always work with local government authorities (governors, municipalities) in operational areas.
- Always maintain an up-to-date contact list of key government counterparts.
- If key protection or operational issues vital to an emergency response cannot be resolved at national level, the UNHCR Representative may pass major advocacy issues to UNHCR HQ.

1. Aperçu

States are responsible for the safety and security of refugees and internally displaced persons on their territory, including the provision of assistance and law and order. Within this framework, and in accordance with UNHCR’s mandate, UNHCR supports host governments in emergency situations, working with government authorities at all levels. This Entry outlines basic principles for working with host governments in both refugee and IDP emergencies.

2. Conseils principaux
Logique sous-jacente ou objectif de l'approche ou du système

The international legal instruments listed below establish the core elements of State responsibility.

With respect to refugee protection:

- The 1984 Cartagena Declaration on Refugees.
- The 1994 San José Declaration (for operations in Latin America only).

With respect to IDP protection:

- The Guiding Principles on Internal Displacement (1998). (The Principles are not an international convention, but collate and reaffirm relevant international human rights and humanitarian law with regard to IDPs as well as clarify legal grey areas and gaps.)

For all populations on a State's territory:

- Human rights law.
- Humanitarian law (applicable only during times of conflict).

National laws on refugees and IDPs determine the scope of national mechanisms to fulfil international obligations. During an emergency response, operations should be aware of the provisions of national law.

UNHCR’s relationship with the host government

Refugees

The High Commissioner’s core mandate covers refugees. Given the particular character of refugees as people who are not protected by their own States, the post of High Commissioner was established with legal authority to intercede on their behalf, as illustrated by his supervisory responsibilities with regard to international refugee instruments.
The refugee mandate applies to asylum-seekers and refugees in both emergency and non-emergency situations, as well as to emergency and non-emergency mixed movements that involve asylum-seekers and refugees. The mandate covers camp settings and settings outside camps. In short, the High Commissioner has a global mandate with respect to refugees, regardless of their location.

The High Commissioner and his Office (UNHCR) are authorized to declare which individuals or groups may be of concern to the Office under its core mandate. Their concern may relate to a specific individual or a wider group. Exercising the mandate in this way informs other external actors of the High Commissioner's international protection interest in and responsibility for persons of concern.

In the course of fulfilling these functions, UNHCR has acquired more than sixty years of experience of collaborating with governments and developing partnerships with other international agencies and non-governmental organizations.

**Stateless persons**

The High Commissioner for Refugees has specific responsibilities for refugees who are stateless, pursuant to the 1951 Convention, which refers to stateless persons who meet its refugee criteria. Moreover, in accordance with GA resolutions 3274 XXIX and 31/36, and pursuant to Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness, it is to UNHCR that persons claiming the benefits of the 1961 Convention apply, both to examine their claims and assist them to present claims to the appropriate authorities.

**IDPs**

Certain requirements must be met before the High Commissioner may act in favour of internally displaced persons. The Secretary-General or a competent principal organ of the UN must issue a specific request or authorization; the State or other entities concerned must consent; there must be assurances that UNHCR will obtain access to the internally displaced persons in question; adequate resources and the Office's particular expertise and experience must be available; action should complement the action of other agencies; and adequate staff safety should be assured.

The High Commissioner does not have a general or exclusive mandate to intercede on behalf of internally displaced persons. However, it has been authorized by the UN General Assembly to become involved operationally under certain circumstances for the purpose of enhancing protection and providing humanitarian assistance to internally displaced persons through special operations.

Currently, the Office's involvement with internally displaced people is largely defined by the inter-agency approach to co-ordination that has been articulated in the Humanitarian Reform and the Transformative Agenda. These models, developed by the Inter-Agency Standing Committee under the leadership of the Emergency Relief Coordinator [ERC], fully respect the mandates of the participating agencies and partners. In mid-2005, UNHCR agreed to assume global cluster
leadership for protection, and co-leadership of both camp coordination and management and emergency shelter.

For more legal information on UNHCR's mandate, see UNHCR, Note on the Mandate of the High Commissioner for Refugees and His Office.

UNHCR presence/offices

The relationship of UNHCR offices with host governments is usually regulated by host country agreements or memoranda of understanding (MOUs), often called Accords de Siège. Host governments are responsible for the safety and security of UNHCR staff. The Charter of the United Nations and the Convention on the Privileges and Immunities of the United Nations of 13 February 1946 (General Convention) provide the legal foundation of the status of UNHCR and its personnel as well as applicable privileges and immunities.

Politique, stratégie ou orientation

When a major new crisis occurs, UNHCR operations should be conscious that government arrangements for managing refugees or IDPs may change. Emergency response operations are delivered by a number of government departments, including those responsible for public works (water, sanitation), education, health, and home affairs (safety and security), which often also oversees local government institutions.

In terms of the practical management of government relations, UNHCR emergency managers should always keep an up to date contact list, including the mobile phone numbers of key government counterparts. These can make a big difference when quick or urgent operational and protection decisions or interventions need to be made.

Refugee emergencies

Pre-emergency preparedness

UNHCR offices, or visiting missions if there is no presence, support host governments to prepare for emergencies. Assistance covers all aspects of preparedness, from identifying/monitoring specific emergency risks and scenarios to advanced preparedness actions, including contingency planning. UNHCR offices should ideally be aware of government contingency plans and national response capacities. For more information on preparedness, please consult the Entry on the Preparedness Package for Refugee Emergencies.

During refugee emergencies

When a refugee emergency occurs, or is imminent, UNHCR should immediately initiate high level consultations with the host government on the points listed below. With respect to inter-agency
coordination arrangements, the refugee coordination model (RCM) applies, by which UNHCR (co-) leads the emergency response in support of the host government.

Main points to consider in deliberations with the Government:

- What information is available to UNHCR on the refugee influx? Highlight those who, in UNHCR's view, are or may be of concern to UNHCR.
- Seek to ensure that newly arriving asylum seekers and refugees have access to the territory and access to asylum and asylum procedures.
- Seek to ensure that new arrivals in the country are granted appropriate status and enjoy corresponding rights.
- Given that the government is responsible for ensuring the civilian character of asylum, clarify security arrangements as well as related procedures for separating civilians from combatants and former combatants, as required.
- Establish who will be the most senior government counterpart in charge of the emergency situation, as well as primary working level counterparts.
- Open initial consultations on the response strategy and how (as appropriate) UNHCR can enhance the host government's emergency response capacity.
- Propose joint development of a contingency plan or refugee response plan (RRP), as applicable.
- Offer assistance with coordination of the emergency response, given the possible involvement of UN and NGO partners.

Response leadership and coordination

UNHCR assists the government on coordination, response delivery and protection issues. Typically, this involves joint coordination arrangements, partnership with various government departments in service delivery, and regular dialogue at all levels on refugee protection issues.

Emergency response delivery

At the request of government, UNHCR may complement national capacities to deliver essential services to newly arriving refugees in an emergency situation. It is of critical importance that an emergency response operation supported by UN and NGO actors does not displace or operate in parallel to government services: existing national capacity should always be the starting point when planning emergency response services. Perhaps assisted by targeted capacity-building, most national public services are able to deliver essential services such as health, education, and water.

IDP emergencies

When an IDP emergency occurs, or is imminent, the UN Resident Coordinator (RC) or Humanitarian Coordinator (HC) initiates consultations with the host government on UN engagement. In terms of inter-agency coordination, the cluster approach applies to IDP emergencies and the overall response is (co-)led by the RC or HC.
UNHCR's role and engagement with host governments focuses on the three global clusters for which it has lead or co-lead responsibility. UNHCR leads the Global Protection Cluster (GPC) and co-leads the Global Cluster for Shelter and the Global Cluster for Camp Coordination and Camp Management (CCCM). UNHCR does not normally support the entire response. Its role and interventions reflect the plan and approach adopted by the UN Country Team (UNCT) or Humanitarian Country Team (HCT).

**UNHCR presence /offices**

In countries that have not agreed an *Accord de Siège*, the UNHCR country office or the Emergency Team should strive to formalize exchanges with the government and define the initial scope and modalities of cooperation. This needs to be done in close consultation with the relevant Bureaux and Divisions at HQ.

**Rôle des partenaires concernés**

**National government authorities**

National authorities lead and manage the overall emergency response in a country, and their decisions and policies have a major impact on persons of concern. It is vital that UNHCR jointly plans and coordinates with national authorities, and engages them in protection and operational issues.

National authorities include government leaders; the principal focal points or task forces on refugee and IDP issues; relevant line ministries (including those responsible for foreign affairs, justice, immigration, social welfare, civil registration, etc.); and relevant security forces, enforcement agencies and the military. Policies and guidance issued by national authorities, including the executive and line ministries, may have a major impact on the approach that local authorities take in specific operational areas.

**Local government**

Local government may include governors, mayors, municipalities, local councils, police, security forces, and branches of line ministries. The influence and role of local government authorities should not be underestimated. They are usually responsible for all local public services, land and settlement issues, and security and law and order. In both out-of-camp and camp operations, the success of a response will depend significantly on the degree to which persons of concern have access to public services. UNHCR may put in place capacity-building initiatives or community support projects (CSPs) to facilitate service delivery and ensure the good will of local populations.

**Judicial authorities**

Judicial authorities are institutions of the State but are normally independent of the government
in terms of their functions. They may operate at national, regional or local level, and include
courts of appeal as well as first instance. UNHCR's engagement with the judicial system may take
several forms. It may intervene formally as a party in legal proceedings, may offer informal
support or input to courts or other judicial bodies, and may support lawyers or applicants
associated with an action or who seek redress, for example, after removal or to prevent
refoulement.

Independent bodies

Independent bodies may include commissions (such as national human rights commissions),
ombuds offices and other independent institutions that may be established or appointed by the
government or parliament to investigate and address complaints of maladministration or
violations of rights. Where appropriate, UNHCR approaches such bodies for support or
intervention, for example to prevent refoulement.

Le rôle et les redevabilités du HCR

- UNHCR engages with the host government at all levels on emergency preparedness and
  response.
- On issues of operational delivery and to channel international humanitarian assistance,
  UNHCR always works in support of government authorities.
- When it is appropriate, feasible, and when requested by the authorities, UNHCR may
  engage in emergency service provision for refugees and IDPs, and in capacity-building
  initiatives that strengthen the ability of host government systems and services to cope with
  an emergency situation.

Annexes

UNHCR, Note on Mandate of the High Commissioner for Refugees and his Office, 2013

Risk Management _ Fraud Prevention _ Toolkit

3. Liens

Fraud Prevention

4. Contacts principaux

When appropriate, contact the relevant UNHCR HQ Regional Bureau.
Contact UNHCR's Division for Emergency, Security and Supply (DESS). At: hqemhand@unhcr.org.