

UNHCR's mandate for refugees and stateless persons, and its role in IDP situations

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Key points

- Be clear about the nature of the people with and for whom UNHCR works. Are they refugees, asylum-seekers, stateless persons, returnees, internally displaced persons (IDP), or none of these? This is particularly important in mixed refugee and IDP situations
- Be clear about UNHCR's mandate responsibilities, and communicate accordingly to all relevant stakeholders
- Understand the mandates of other humanitarian actors, as well as the obligations and responsibilities of the Government authorities
- Identify the most suitable and appropriate coordination arrangements in accordance with the Refugee Coordination Model (RCM) and other applicable policy

1. Overview

UNHCR's mandate is the (legal) basis for UNHCR's activities and the rationale for its existence. It informs **what** UNHCR is supposed to do and for **whom**.

The primary source of UNHCR's mandate is the Statute adopted by the General Assembly (GA) of the United Nations in 1950 (Resolution 428 (V) of 14 December). Paragraph 1 of the Statute states that "The ... High Commissioner ..., acting under the authority of the General Assembly, shall assume the function of **providing international protection**, under the auspices of the United Nations, to **refugees** who fall within the scope of the present Statute and of **seeking permanent solutions** for the problem of refugees (...)" (emphases added).

The Statute further develops the material scope in paragraph 8. Additionally, UNHCR's refugee mandate is embedded in treaties, for example obliging State Parties to the 1951 Refugee

Convention and its 1967 Protocol to cooperate with UNHCR under Article 35 of 1951 Refugee Convention and Article II of its 1967 Protocol (see below).

The personal scope of UNHCR's mandate was subsequently expanded by the GA (as foreseen in paragraph 9 of the Statute) to include **stateless persons** (recognised by the GA in 1974 and in 1976, with a further expansion of UNHCR's statelessness mandate in 1995 and 2006), **asylum-seekers** (clarified by the GA in 1981), and **returnees** (recognized by the GA in 1985).

Regarding **internally displaced persons**, UNHCR's history of providing protection and assistance to IDPs dates back more than fifty years. Various resolutions of the GA have authorized UNHCR to be involved with IDPs, in acknowledgement of the Office's expertise in forced displacement and capacity to adapt and respond to evolving emergencies, and the need to address people displaced within their own countries also as critical to resolving refugee situations.

In relation to returnees, UNHCR has to be given free and unhindered access to returning refugees, as needed, in particular to monitor their treatment in accordance with international standards; and, in this context, encourages UNHCR to strengthen its returnee monitoring activities, where necessary, in the interests of consolidating sustainable return (Para. (r), UNHCR Executive Committee Conclusion No. 102(LVI) – 2005).

2. Relevance for emergency operations

UNHCR's refugee mandate applies in both emergency and non-emergency situations, including in mixed movements situations involving asylum-seekers and refugees as well as migrants. The refugee mandate also applies both in camp and outside camp settings. In short, the High Commissioner has a mandate with respect to refugees globally, where and how ever they are located.

All humanitarian actors as well as States need to be aware of UNHCR's role, as defined by its mandate. This ensures a common understanding of organisational responsibilities and accountabilities. It also helps to clarify UNHCR's role, how it works in the humanitarian system, and the direct relationship it needs to maintain with Government authorities on refugee matters. UNHCR's authority under its mandate reposes also on the quality, impact and credibility of its actions in the field, and on the diplomatic and advocacy skills of its staff.

The Inter-Agency Standing Committee (IASC), under the leadership of the Emergency Relief Coordinator, has set out agreed arrangements for global and country leadership, advocacy and coordination responsibilities in response to humanitarian crises. UNHCR's engagement in these, and in particular with IDPs, is a natural complement to its mandate for refugees and stateless persons, and vice versa. Where a UNHCR-led refugee response is also underway in complex humanitarian emergencies or natural disasters, it will be especially important to ensure streamlined, complementary and reinforcing leadership and coordination between the IASC coordination and UNHCR's refugee coordination.

3. Main guidance

Description and guidance

1. Nature of the Mandate

Authority of the General Assembly

It is important to recall that the mandate of the High Commissioner was established by the UN GA ("The United Nations High Commissioner for Refugees, acting under the authority of the General Assembly...") and that the GA intended to ensure that the High Commissioner, supported by his or her Office, would enjoy a special status within the UN, possessing the degree of independence and prestige required to perform his or her functions effectively and exercise moral authority.

Non-political, humanitarian and social character

A general feature of UNHCR's mandate is its entirely non-political (that is, impartial), humanitarian and social character (paragraph 2 of the Statute). On these grounds, the High Commissioner and his or her staff should refrain from statements or any other activities that actively take or could be perceived to take political positions. (See also UNHCR, **Code of Conduct**, commitment 3: avoid conflict of interests and preserve and enhance public confidence in UNHCR.)

Dual legal foundation

UNHCR and UNHCR's refugee mandate have a dual legal foundation. While the Statute is the main source of UNHCR's mandate, it is complemented by subsequent GA Resolutions, the 1951 Refugee Convention and its 1967 Protocol, and regional refugee instruments. This two-pronged legal foundation has given the High Commissioner, and his or her Office, independence.

Exclusivity

UNHCR's mandate concerns a legally defined group of people and covers all aspects of their wellbeing. This extends to seeking to ensure that refugees and stateless persons enjoy the widest possible exercise of a range of fundamental rights and freedoms (see the Preambles of the 1951 Refugee Convention and the 1954 Statelessness Convention), as well as securing durable solutions for refugees and reducing statelessness. Since 2003, UNHCR's mandate has been permanent (UN GA Res. 58/153).

Bound by legal instruments and UN resolutions, UNHCR's mandate is 'non-transferable'. This means that in stand-alone refugee or mixed movement situations accountability for refugees, asylum-seekers and stateless persons cannot be transferred or delegated to another UN entity or actor.

Apart from UNHCR, the only other UN refugee agency is the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), which has a specific mandate to provide assistance and protection to 1948 Palestine refugees, and 1967 displaced persons, and their descendants, in five geographical areas of operation (Gaza, the West Bank including East Jerusalem, Lebanon, Jordan, and the Syrian Arab Republic). Outside these geographical areas,

UNHCR has responsibility for Palestinian refugees.

Coordination

The coordination of international protection, assistance and solutions is inherent to UNHCR's refugee mandate and derives from the High Commissioner's responsibility to ensure that individuals receive international protection from the time they become refugees until they find a solution.

UNHCR's Statute places the High Commissioner and his or her Office at the centre of the international refugee response system, including in respect of coordination functions. The High Commissioner is also empowered to 'invite the co-operation of the various specialized agencies' to assist his or her Office in the performance of his or her mandate.

The High Commissioner has a global mandate for refugees regardless of their location (camp, rural dispersed or urban settings), in emergency, non-emergency situations and during mixed movements. Effective exercise of UNHCR's mandate both presupposes, and is underpinned by, a commitment by States to cooperate with him or her and his or her Office, and acknowledges the High Commissioner's role in the 'effective coordination of measures taken to deal with this problem' [the refugee problem].

UNHCR's Refugee Coordination Model

UNHCR's Refugee Coordination Model (RCM), issued in December 2013, provides a framework for leading, coordinating and delivering refugee operations and consolidates coordination practices with the goal of achieving the best possible protection of and assistance to refugees. The RCM:

- Outlines UNHCR's role and responsibilities in refugee operations and mixed displacement situations.
- Provides an inclusive platform for planning and coordinating refugee operations.
- Clarifies modes of coordination in relation to broader humanitarian coordination structures, including the cluster system of the Inter-Agency Standing Committee (IASC).

Under the overall leadership of the host Government, partnership-based and inclusive coordination is a pre-condition for an effective refugee emergency response operation. Effective coordination and leadership have a direct impact on the delivery of protection and assistance to refugees. By articulating UNHCR's coordination role, the RCM reaffirms the integrity of the mandate and UNHCR's tradition of leadership on refugee protection.

2. Material Scope

The activities which the High Commissioner is required to carry out for refugees and stateless people are set out in the Statute and in subsequent GA and ECOSOC resolutions. UNHCR is primarily mandated to provide international protection and humanitarian assistance, to ensure inclusion in national systems and to seek, together with Governments, durable solutions.

For refugees, standard functions have included registration, status determination, issuance of documents to persons under UNHCR's mandate, advocacy, protection programming, relief

distribution, emergency preparedness, special humanitarian activities and broader development work. With regard to its mandate on statelessness, UNHCR supports governments to identify and protect stateless people, and to prevent and reduce statelessness. Identifying stateless persons involves understanding causes of statelessness, gathering statistics on stateless populations, and assisting governments in establishing and implementing procedures to determine who is stateless, among other activities. Typical activities to enhance the protection of stateless people involves advocating for their access to rights in line with the 1954 Convention relating to the Status of Stateless Persons. UNHCR works to prevent and reduce statelessness through advocacy and technical support to ensure legal frameworks and procedures are in place to prevent statelessness at birth and later in life, and to facilitate the naturalization or confirmation of nationality of stateless individuals.

UNHCR also provides diplomatic and consular protection to refugees and stateless persons in the absence of such protection by States. The High Commissioner is entitled, and has a duty, to intercede directly on behalf of refugees and stateless persons who would otherwise not be represented legally at the international level.

An integral element of the core mandate is the High Commissioner's responsibility to supervise the application of refugee protection instruments. In addition, States parties to the 1951 Refugee Convention, 1967 Protocol and the 1969 OAU Convention have a duty to cooperate with UNHCR, particularly regarding its supervisory responsibility and, among other things, provide UNHCR with information and statistical data on the treatment of refugees. UNHCR fulfils this responsibility through, for example, advocacy, legislative and judicial engagement, public information, capacity-building and technical assistance, either independently or through partners.

Registration and status determination are key functions, because UNHCR is authorized to declare which individuals or groups come under its core refugee mandate. This exercise of the mandate makes clear to other external actors, including host Governments, the High Commissioner's international protection interest in and responsibilities towards such persons.

UNHCR recognizes refugees in a myriad of ways, including through individual procedures and in certain circumstances declaring groups to be refugees on a **prima facie** basis.

Regarding IDPs, UNHCR focuses on advocacy, coordination, leadership and operations. Operations with IDPs are aligned with our leadership and coordination responsibilities in protection, camp coordination and camp management and shelter. We put a particular emphasis on situations of conflict and violence. UNHCR also contributes to any inter-agency response to disaster-induced internal displacement, taking the lead on protection, whenever these criteria are met:

- Field presence,
- A government request,
- An inter-agency agreement.

UNHCR plays a leading role, collaborating with States and other partners, to promote, facilitate, and coordinate voluntary repatriation in safety and dignity and has the authority to monitor the conditions of return by virtue of its statutory responsibility and general mandate to seek and support voluntary repatriation as a durable solution. Returns can also occur in a self-organized

manner, when UNHCR and the wider internal community do not believe that conditions of in safety and in dignity can be met and can also occur in adverse circumstances when refugees find themselves in a position in which their protection is not adequately guaranteed in the host State and return is presenting itself to the refugees as the only – real or perceived – viable option. The adverse circumstances may be the result of coercion, intimidation or other pressure from State or non-State actors, or of an unstable, unsafe or insecure environment. Return in adverse circumstances does not fulfil the requirements of voluntary repatriation. Even though the choice to return in such circumstances may be informed and with the refugees' consent, it is not entirely free. Where return is taking place in adverse circumstances UNHCR maintains its duty to remain engaged in pursuit of international protection and humanitarian assistance to refugees and, together with governments, seek durable solutions.

Protection monitoring in return areas is key activity as it provides UNHCR with relevant and reliable data and information about the protection situation in the country of origin for all returnees that UNHCR will use to inform programming, advocacy and communications with refugees.

3. Personal Scope

Refugees and asylum-seekers

Refugees are part of UNHCR's core mandate. Refugees are all persons who meet the eligibility criteria under an applicable refugee definition, as provided for in international or regional refugee instruments, under UNHCR's mandate, or in national legislation. See [Refugee definition](#) Entry.

Asylum-seekers also fall within the High Commissioner's competence **ratione personae**. Asylum-seekers are persons who are seeking refugee status or a complementary international protection status and whose status has not yet been determined by UNHCR or the host Government authorities.

Not every asylum-seeker will ultimately be recognized as a refugee. However, an asylum-seeker is entitled to protection from refoulement ([Access to territory and non-refoulement](#)), as well as certain minimum rights and standards of treatment, pending determination of their status.

Returnees

Returnees also fall within UNHCR's core mandate. These are former refugees who have returned to their country of origin spontaneously or in an organized fashion but have not yet been fully (re)integrated. UNHCR's mandate in this area has been refined and extended by the Executive Committee and the GA. Initially considered to cease when a refugee crossed the border into his or her country of origin, UNHCR's mandate now extends to providing reintegration assistance and monitoring refugee treatment after return. (See ExCom, No. 18 (1980), No. 40 (1985), No. 74 (1994), and No. 101 (2004); GA Res. 40/118 of 13 December 1985; and GA Res. 49/169 of 24 February 1995.) UNHCR's engagement with returnees is usually time-limited; its aim is to hand responsibility over to other actors, notably the Government authorities and development partners.

[Stateless persons](#)

With respect to refugees who are stateless, UNHCR's initial mandate (set out in para. 6(A)(II) of The Statute and Art. 1(A)(2) of the 1951 Refugee Convention) has been expanded by the GA over time and now also includes all non-refugee stateless persons. Significantly, activities on behalf of stateless persons are part of UNHCR's statutory function, and include identification, prevention and reduction of statelessness, and protection of stateless persons. (See ExCom, No. 78 (1995), endorsed by GA Res 50/152 of 21 December 1995; and ExCom, No.106 (2006), endorsed by GA Res. 61/137 of 19 December 2006; see also 1954 Convention on the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness.)

Internally displaced persons

As the legal entity able to intercede on behalf of refugees, UNHCR was the agency historically first called upon by the General Assembly to protect and assist IDPs (GA Res. 2790 (XXVI) of 6 Dec 1971, ECOSOC Res. 1705[[LIII] of 27 July 1972). Since then, its work on internal displacement has been recognized by the GA as part of UNHCR's activities in its annual resolution (GA Res. 105 (XLVII) of 16 Dec 1992), complementing inter-agency efforts in this regard (GA Res.48/135 of 18 Feb 1994).

Good offices

UNHCR may also, and does, engage in activities to assist different groups outside its mandated functions if the GA or the Secretary-General invites UNHCR to extend its 'good offices' to such groups.

Annexes

[United Nations, Statute of the Office of the United Nations High Commissioner for Refugees, Annex to General Assembly Resolution 428 \(V\) of 14 December 1950](#)

[UNHCR, Note on the Mandate of the High Commissioner for Refugees and his Office, 2013](#)

4. Links

[Policy on UNHCR's Engagement in Situations of Internal Displacement, 2019](#)

5. Main contacts

As first port of call, the UNHCR Dep. Representative (Protection), UNHCR Asst. Rep. (Protection), and/or Snr Protection Officer in the country; or The UNHCR Regional Asst./Dep Rep (Protection) and/or Snr. Regional Protection Officer at the regional office (if applicable); or The Snr. Regional Legal Advisor in the respective UNHCR regional bureau, covering the respective country region, who in turn will liaise as required with the parent unit at UNHCR DIP.