UNHCR's mandate for refugees, stateless persons and IDPs

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Key points

- Be clear about the nature of the population of concern. Are they refugees, asylum-seekers, stateless persons, IDPs, or none of these? This is particularly important in mixed refugee/IDP situations.

- Be clear about UNHCR’s mandate responsibilities, and communicate accordingly to all relevant stakeholders. Understand the mandates of other humanitarian actors.

- Identify the most suitable and appropriate coordination arrangements in accordance with the Refugee Coordination Model.

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 (material scope) and for whom (personal scope).

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. The personal scope was subsequently expanded by the GA (as foreseen in paragraph 9 of the Statute) to include stateless persons (clarified by the GA in 1974 and confirmed in 1976), asylum-seekers (clarified by the GA in 1981), and returnees (recognized by the GA in 1985).
UNHCR does not have a general or exclusive mandate for internally displaced people. The GA has authorized UNHCR's involvement in specific operations since 1972 (for example in Sudan, Angola, Colombia, and Bosnia and Herzegovina), and in 1993 clarified UNHCR's role under certain formal conditions (see below).

2. Relevance for emergency operations

The 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 however 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.

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 Office, would enjoy a special status within the UN, possessing the degree of independence and prestige required to perform his 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 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 the 1967 Protocol, and regional refugee instruments. This two-pronged legal foundation has given the High Commissioner, and his Office, independence.
**Exclusivity**

UNHCR's mandate concerns a legally defined group of people and covers all aspects of their well-being (the right of refugees to enjoy the widest possible range of fundamental rights and freedoms, Preamble of the 1951 Convention), including finding a solution to their problem. Since 2003, the mandate has been permanent (UN GA Res. 58/153).

Bound by legal instruments and UN resolutions, the mandate is ‘non-transferable’. This means that in no stand-alone refugee or mixed situation can accountability for refugees and persons of concern be transferred or delegated to another UN entity or another 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 areas of operation (Gaza, the West Bank including East Jerusalem, Lebanon, Jordan, and the Syrian Arab Republic). Outside these 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 an individual receives international protection from the time he or she becomes a refugee until he or she finds a solution.

UNHCR's Statute places the High Commissioner and his 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 Office in the performance of his 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 this mandate both presupposes, and is underpinned by, a commitment by States to cooperate with him and his 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 are set out in the Statute and in subsequent GA and ECOSOC resolutions. UNHCR is primarily mandated to provide international protection and humanitarian assistance and to seek, together with Governments, durable solutions.

Standard functions have included registration, status determination, issuance of documents to persons under UNHCR's mandate, relief distribution, emergency preparedness, special humanitarian activities and broader development work. UNHCR also provides surrogate diplomatic and consular protection to refugees and stateless persons. 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 international level.

An integral element of the core mandate is the High Commissioner's responsibility to supervise the application of refugee protection instruments, including the 1951 Convention and its 1967 Protocol. References to UNHCR's supervisory responsibility are also found in the 1969 Organisation of African Unity (OAU) Convention, the 1984 Cartagena Declaration and several EU legislative instruments. UNHCR's Statute explicitly gives UNHCR a role in supervising the application of international conventions for the protection of refugees. In addition, States parties to the 1951 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, public information, capacity-building and technical assistance, partnerships, commentaries on national legislative and policy initiatives to assist law and policy makers, and submission of legal interventions as an amicus curiae ('friend of the court') to assist courts to arrive at decisions affecting the legal status, rights and solutions for refugees that are in accordance with international law.

Registration and status determination are key functions, because UNHCR is authorized to declare which individuals or groups are of concern to the Office under its core 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 but also through declaring groups to be refugees on a *prima facie* basis.

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 authorities. Not every asylum-seeker will ultimately be recognized as a refugee. However, an asylum-seeker is entitled to protection from refoulement [entry/55697/access-to-territory-and-nonrefoulement] and certain minimum 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 General Assembly. 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 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 Convention) has been expanded by the General Assembly 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**

The High Commissioner does not have a general or exclusive mandate with respect to internally displaced persons (IDPs). Instead, the GA has authorized UNHCR to conduct operations under certain circumstances to protect and provide humanitarian assistance to IDPs. In the early 1990s, it clarified UNHCR's role by setting out formal criteria for the Office's involvement. Its involvement is subject to:

- A specific request or authorization from the UN Secretary General or a competent principal UN organ.
- The consent of the State or other entity concerned.
- Assurance of access to the internally displaced persons in question.
- Availability of adequate resources, and the Office's expertise and experience.
- Complementarity with other agencies.
- Adequate staff safety.

The Inter-Agency Standing Committee developed an inter-agency coordination approach (the humanitarian reform and Transformative Agenda) for responding to IDPs, under which UNHCR agreed to assume global cluster leadership in 2005 for protection and co-leadership for camp
coordination/management and emergency shelter. Today, UNHCR's involvement with IDPs focuses the engagement of operations where UNHCR has a comparative advantage and cluster leadership as spelled out in the Operational Guidelines for UNHCR's Engagement in Situations of Internal Displacement (UNHCR/OG/2016/2).

**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*

*UNHCR 0G 2016 2 Operational Guidelines for UNHCR's Engagement in Situations of Internal Displacement*

*IDP Footprint Annex UNHCR OG 2016 2*

**4. Links**

UNHCR - *Who we help UNHCR, Refugee Coordination Model, November 2013. UN General Assembly, Implementing actions proposed by the United Nations High C... UN High Commissioner for Refugees, UNHCR's mandate in relation to assistance to... UN High Commissioner for Refugees, Policy on UNHCR's role in relation to person... UNHCR, Note on the Mandate of the High Commissioner for Refugees and his Office*

**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.