

FRAMEWORK FOR LAICs TO PROVIDE PROTECTION TO IDPs

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Note: This framework will be further revised in light of feedback from those implementing this guidance.

Background

The Iraqi state bears the prime responsibility for ensuring that the human rights of internally displaced persons, who are entitled to the same rights and protection as all Iraqis, are guaranteed.

This analysis is principally directed at UNHCR funded LAICs in Iraq and intends to assist the LAICs by building their capacity to identify gaps in protection and to develop appropriate responses to address those gaps. It should help LAICs get to grips with both the concepts that underpin protection and the operational elements involved. It should equally help LAICs to understand the context of people's protection needs and which responses/interventions can be developed.

This framework should be read in conjunction with UNHCR's concept paper 'Legal Aid and Information Centres: A Protection Tool in Iraq', the UN Guiding Principles on Internal Displacement and other international legal standards and principles in humanitarian, human rights and refugee law. It is well understood that this guidance is not a panacea and that people's protection, especially when they are being displaced due to sectarian violence, will continue to be a very difficult task. Moreover, given limited resources and capacity, it is understood that the LAICs cannot undertake all the protection activities discussed, but this framework should help LAIC staff to think through the practicalities of protection.

Defining Protection

The concept of protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (e.g., international human rights law, international humanitarian law and refugee law).

Examples of violations and deprivations that cause protection needs:

- Non-access to documentation which in turn is required to access basic services
- Deliberate killing, wounding, displacement, destitution and disappearance
- Sexual violence and rape
- Torture and inhuman or degrading treatment
- Dispossession of assets by theft and destruction
- The misappropriation of property and violations of property rights
- Deliberate discrimination and deprivation in health, education, property rights, access to water and economic opportunity
- Violence and exploitation within the affected community
- Forced recruitment of children, prostitution, sexual exploitation and trafficking (including by peacekeepers and humanitarian staff), abduction and slavery
- Forced or accidental family separation
- Arbitrary restrictions on movement, including forced return, punitive curfews or roadblocks which prevent access to fields, markets, jobs, family, friends and social services
- Thirst, hunger, disease and reproductive health crises caused by the deliberate destruction of services or the denial of livelihoods
- Restrictions on political participation, freedom of association and religious freedom
- Attacks against civilians and the spreading of landmines

The Legal Framework

It is imperative that the LAICs are familiar with the legal framework for protecting IDPs, otherwise LAIC staff will not be able carry out the LAIC objectives.

Primary Responsibility of the State

Unlike refugees, IDPs have not crossed an international border. As such, no single international legal instrument is exclusively devoted to their specific protection needs.¹ IDPs are covered by the laws of Iraq and international human rights and humanitarian law, particularly those which Iraq acceded to or provisions which are now considered to be part of customary law, and it is important to understand that the state holds the primary responsibility for assisting and protecting them.

International Human Rights Law

Under human rights law, IDPs are entitled to enjoy, in full equality, the same rights and freedoms under Iraqi and international law like all Iraqis. Although most human rights treaties allow states to suspend the application of some human rights guarantees in emergency situations, including war, it recognises

¹ Examples of 'single' international legal instruments are the conventions relating to refugees and stateless persons.

that people have certain fundamental and "non-derogable" rights that must be protected at all times, even in conditions of war and emergency. They include:

- the right to life;
- the right to judicial personality and due process of law;
- the prohibition of torture, slavery and degrading or inhuman treatment or punishment; and
- the right to freedom of religion, thought and conscience.

International Humanitarian Law

Whenever IDPs find themselves in a situation of armed conflict, in addition to those provisions of human rights law from which a state cannot derogate, IDPs are also protected by international humanitarian law (IHL). IHL provides important protection for those who have already been uprooted, and, most importantly, against arbitrary displacement.

This is done in several ways. First, the rules governing the conduct of hostilities prohibit attacks against civilians and destruction of objects indispensable to their survival, such as crops, livestock and drinking water installations. Second, IHL provides that civilians be treated in a humane manner and protects them from abuses committed by the party under whose power they find themselves. Together, these rules seek to preserve a minimum of safety and a basis for subsistence, both of which are essential to allow persons to remain in their homes, and as guarantees for those who have already been displaced. In addition, IHL contains express prohibitions against arbitrary displacement, and regulates the conditions under which evacuations can be carried out.

Accordingly, respect for IHL constitutes an important form of protection. Efforts to promote such respect include drawing the attention of the parties to existing humanitarian problems, reminding them of their legal obligations and facilitating contacts between them for the purpose of enhancing the protection of civilians.

While IHL has been crafted for international conflicts, a number of provisions are now customary law and therefore are equally applicable to internal conflicts.²

Guiding Principles on Internal Displacement

Drawing upon the relevant provisions of these standards of international humanitarian law, human rights law and refugee law by analogy, the Guiding Principles on Internal Displacement (1998) are the first comprehensive attempt to articulate what protection should mean for the internally displaced.

² See e.g. Jean-Marie Henckaerts and Louise Doswald-Beck, Customary International Humanitarian Law, Volumen I: Rules, Chap. 17, International Committee of the Red Cross, 2005.

The Guiding Principles identify the rights and guarantees relevant to the protection of IDPs in all phases of displacement. They outline standards for protection against arbitrary displacement, protection and assistance during displacement, and for safe return or resettlement and reintegration. Protection as elaborated in the Principles covers not only needs for physical security and safety but also the broad range of rights provided for in international law (including the right to food, health, education and employment).

The Principles do not seek to create a privileged category of persons or to establish a separate legal status for the internally displaced. Rather, they are based on the assumption that IDPs have the same rights and obligations as other persons living in their own state. At the same time, however, they draw attention to the importance of recognising the particular situation and needs of IDPs.

Although not a legally binding document as such, the Principles reflect and are consistent with international human rights and humanitarian law, and refugee law by analogy, which are binding.³

State Responsibility

It is the Iraqi state's responsibility to protect IDPs by:

1. Prevention: The Iraqi government is responsible for preventing (further) displacement involves addressing the root causes and direct causes of internal conflict.
2. Reaction: The Iraqi government is responsible for responding to displacement with appropriate protection and assistance measures.
3. Rebuilding: The Iraqi government is responsible for providing protection and assistance to IDPs with recovery, reconstruction, and reconciliation.

When it comes to identifying protection gaps and responses it is important to look at what is the Iraqi government doing:

1. Action: Is it taking some kind of actively harmful action or measures? If yes, LAICs should be seeking to stop such action.
2. Neglect: Is it ignoring or paying no attention to harmful action or measures? If yes, LAICs should seek to get the government to take action.
3. Inability to act or state failure: Is it aware of harmful action or measures but does not have the capacity to respond to them? If yes, LAICs should explore how the LAICs or the international community can support and supplement the efforts of the government and local authorities.

³ *the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights; the Convention on the Rights of the Child; the International Convention on the Elimination of All Forms of Racial Discrimination; and the Convention on the Elimination of All Forms of Discrimination against Women.* These are the treaties by which Iraq is bound, in addition to any provision which is part of international customary law (e.g. principle of *non-refoulement*).

In identifying protection gaps and responses, the LAIC should determine what type of protection and assistance is required?

1. Identify those in need (take into account impact on host communities, returnees and other vulnerable groups).
2. Identify precisely the nature of their protection and assistance needs.
3. Identify the kinds of threats or violations affecting their condition.⁴

Holding the appropriate authorities responsible and accountable is critical in protection work. This involves putting pressure on and working with those with legal responsibility for protection – state authorities and mandated IOs.

Three Dimensions of Protection

One: Protection as an objective (what/why)

LAICs should refer to the Guiding Principles, particularly at the rights of IDPs. Some of the key principles are summarized below:

- IDPs have equal rights and freedoms as other Iraqis under international and domestic law. No discrimination against IDPs just because they are displaced.
- Iraqi authorities are primarily responsible for assisting and protecting IDPs. They are responsible for ensuring that:
 - IDPs right to life, liberty and security are protected.
 - IDPs have a right to not be tortured.
 - IDPs should not be subjected to arbitrary arrest or detention.
 - IDPs have a right to liberty of movement and freedom to choose his or her residence.
 - IDPs have the right to seek safety in another part of the country and to be protected from forcible return to or resettlement in any place where they would be at risk.
 - IDPs have the right to know the fate and whereabouts of missing relatives. The authorities must assist in this regard.
 - IDPs have the right to be with their family and family reunification.
 - The IDPs have access to basic shelter and housing
 - The IDPs have access to essential food and potable water
 - The IDPs have access to essential medical services and sanitation
 - The IDPs have access to education, which should be free for primary students
 - The special concerns of women and children are protected.
 - The IDPs have a right to documentation necessary to enjoy/exercise their legal rights, such as passports, personal ID documents, birth certificates, and marriage certificates, without fulfilling unreasonable conditions, such as returning to the place from where they were displaced.

⁴ Further details on protection issues can be found in **Annex A: Strengthening Protection**.

- The IDPs have rights to freedom of religion and expression.
- IDPs have rights to seek jobs and participate in economic activities.
- IDPs have a right to participate equally in community affairs.
- IDPs have a right to vote and participate in government or public affairs.
- IDPs have a right to communicate in a language they understand.
- IDPs should be able to participate in the planning and management of distributing basic supplies and their return, resettlement and reintegration into their communities.
- IDPs have a right to request assistance and protection from the authorities, without being punished for the request.
- IDPs have a right to not be arbitrarily deprived of property and possessions. The authorities must protect them from pillage, direct or indiscriminate attacks or other acts of violence, being used to shield military operations or objectives; being made the object of reprisal; being destroyed or appropriated as a form of collective punishment; and being destroyed and arbitrarily and illegally appropriated, occupied or used.
- Certain groups of internally displaced persons, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of household, persons with disabilities (including those wounded and sick) and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs.

Developing Protection Strategies during Different Phases of Displacement

The nature of protection as an objective/outcome will vary during the different phases of displacement and therefore the strategy pursued or activities to be taken should be tailored as follows:

Ensuring the physical security of IDPs is the essential starting point for any effective protection response.

Phase: Conflict or Ongoing Generalized Violence

The following protection activities can be undertaken:

- Protection/human rights monitoring and reporting, including with regard to discriminatory practices targeting the displaced population or segments thereof.
- Inclusion of protection elements in assistance programmes.
- Ensuring the safety and security of IDPs (e.g., advocate for presence of police).
- Protection measures for children, women and other vulnerable groups (elderly, handicapped, ethnic or minority groups).
- Protection/human rights awareness raising for IDPs.

- Encouragement to form strong civil society/IDP networks amongst the internally displaced.
- Have due regard to the needs of host communities and include them in project benefits.
- Preparatory work with local government officials, discussions with potential employers, agreements with groups which might oppose arrivals/stay, and general informational activities in the area.
- Respond to a need for truth and justice for acts committed in the past.
- Develop advocacy, mediation and negotiation skills.

Within the framework of assistance activities, are the needs of IDPs met in the following sectors:

- Camp management
- Emergency education
- Emergency food security
- Nutrition/supplementary feeding programmes
- Health programmes
- Transportation
- Emergency WATSAN
- Shelter/housing
- Employment generation for IDPs, including vocational training and availability of affordable micro credit schemes.

Phase: Immediate Aftermath of Conflict

The following activities could be taken:

- Assessing conditions in return areas to ensure that they are conducive to safe, dignified and sustainable returns.
- Informing IDPs of conditions in areas of return; assisting IDPs, including female heads of household, in assessing the conditions for themselves.
- Mine action in areas of return and mine-awareness activities for returning IDP populations.
- Providing alternative solutions for those IDPs who are unwilling to return to their areas of origin, such as local integration or resettlement to other areas.
- Establishing mechanisms for property restitution and dispute settlement and ensuring equal access of displaced women to such mechanisms.
- Assisting returning IDPs in meeting their immediate food and basic subsistence needs.
- Restoration of essential community services and infrastructure in areas of return.
- Ensuring consideration of return issues in the context of cease-fire and peace negotiations.

Phase: Transition Towards Development

The following activities could be taken:

- Supporting peace-building and national reconciliation efforts, including conflict transformation components in projects.
- Long-term livelihood recovery and development for resettled or returning IDPs.
- Inclusion of IDP concerns into development plans.
- Capacity building support for key government ministries with a longer-term responsibility for the reintegration and resettlement of IDPs.
- Restoration and development of legal and judicial institutions.
- Promotion of long term property and land rights affecting IDPs.
- Community-based rehabilitation for resettling or returning IDPs.
- Agricultural development.
- Mine action.
- Environmental protection programmes.
- Gender based protection.
- Trauma/psychosocial support.

Phase: Prevention, Pre- and Post-Displacement

The following activities can have a preventative effect:

- An existing and up to date contingency plan which addresses the potential needs of the displaced.
- A public awareness campaign or human rights training for the general population.
- Making populations at risk aware of their rights can serve as a preventive measure. Through human rights training, awareness campaigns, and advocacy with local leaders, communities can be empowered to protect themselves and reclaim their rights. In particular, local organisations and IDPs should play an active role in providing information on imminent displacement situations.

Two: Protection as an activity/function (how)

LAICs should undertake activities linked to achieving protection objectives.

Protection in Practice

There are five main modes of action or techniques that LAICs can utilise to try and secure protection for IDPs and other vulnerable groups. The first three do not involve direct assistance but are differing means of applying pressure that aim to ensure compliance of the relevant authorities with international laws of civilian protection so as to prevent further violations. The fourth and fifth modes are means of providing direct assistance to those surviving and recovering from violations.

1. **Denunciation** is pressuring the authorities through public disclosure into meeting their obligations and protecting individuals or groups exposed to abuse.

2. **Persuasion** is convincing the authorities through further private dialogue to fulfil their obligations and to protect individuals and groups exposed to violations.
3. **Mobilisation** is sharing information in a discreet way with selected people, bodies or states that have the capacity to influence the authorities to satisfy their obligations and to protect individuals and groups exposed to violations.
4. **Substitution** is directly providing services or material assistance to the victims of violations.
5. **Support** to structures and services (capacity building) is empowering existing national and/or local structures through project oriented aid to enable them to carry out their functions to protect individuals and groups.

Protection Activities

While the modes of action refer to techniques that can be used to secure protection, they do not refer to activities.

Responsive action is any activity undertaken in connection with an emerging or established pattern of violation and aimed at preventing its recurrence, putting a stop to it, and/or alleviating its immediate effects. Responsive action has a sense of real urgency (but can last for many years) and aims to reach a particular group of civilians suffering the immediate horrors of a violation. It is primarily about stopping, preventing or mitigating a pattern of abuse. To do so, it might draw on one or a combination of the five modes of protective action.

Remedial action is any activity aimed at restoring people's dignity and ensuring adequate living conditions subsequent to a pattern of violation, through rehabilitation, restitution, compensation and repair. Remedial action is a longer-term process that aims to assist people living with the effects of a particular pattern of abuse. This might include the recuperation of their health, tracing of their families, livelihood support, housing, education, judicial investigation and redress. It is also likely to involve all five modes of protective action.

Environment building is any activity aimed at creating and/or consolidating an environment - political, social, cultural, institutional, economic and legal - conducive to full respect for the rights of the individual. Environment-building is a deeper, more structural process that challenges society as a whole by aiming to change policy, attitude, belief and behaviour. It is likely to involve the establishment of more humane political values, improvements in law and legal practice, the training of security forces, and the development of an increasingly non-violent public culture.

Fundamental to any understanding of protection is recognition that no humanitarian or human rights agency or NGO can protect all IDPs and other vulnerable groups on its own. No single agency or NGO will ever have the necessary mandate, expertise, resources, force or contacts to do so. Consequently, agencies and NGOs need to cooperate in protection work and

have a sense of which is best placed to act in a particular moment and on a particular issue.

Critical to the success of any **complementary protective action** is active liaison and information-sharing between different organisations. Within reasonable limits, humanitarian and human rights agencies need to tell each other what they are doing and be able to plan protective action together formally or informally.

In taking any protective action, LAICs should refer to Annex **B: Response Plan**.

The following table are activities that LAICs can do, in addition to providing legal assistance and representation (which is their primary activity in support of protecting IDPs), in order to assist in the protection of IDPs:

1. Information collection, analysis and dissemination
Obtain reliable information on the number, profile, location and categories of IDPs
Update information regularly
Disaggregate the information, according to age and gender and any other relevant factors
Establish links with the authorities and various bodies (e.g. IDP Working Group/Cluster F) and disseminate reports to them
Create profiles on vulnerable groups, such as women, children, draft-age males, and minorities within displaced groups. Identify communities at risk of displacement and on the factors impelling displacement.
2. Monitoring and reporting on human rights and humanitarian law
Collect accurate information on the IDPs (potential returnees), on the place of origin, and on the place of displacement. Obtain a full picture of the situation. Be accurate and objective.
What precisely are the kinds of threats and human rights violations facing the displaced and the causes of displacement; confirm the facts to document that violations have indeed taken place.
Establish a protection monitoring system to assess and analyse conditions facing the displaced and other vulnerable groups.
Obtain information on whether they have property (house, land), work; has the IDP been arrested/detained/threatened; are the children able to attend school; does the IDP participate in meetings or associations, does the IDP have a position of responsibility in the community; does the IDP feel discriminated against; has the IDP received material assistance; does the IDP feel safe?
What is the level of respect for human rights and humanitarian law in the place of origin and the place of displacement?
Monitor the mechanisms that contribute to the IDP's protection (e.g., the family, the community, work and participation in economic activities, the administrative structure, and the judicial system).
Communicate/report situation or violations to local authorities or to UNHCR, ICRC or other relevant bodies, with as much detail as possible, so that they may make representations to the relevant authorities. Discuss with

international IP staff or UNHCR who else to inform, for example, other field organizations, international organizations, donor government, legal rights groups, community leaders and journalists.

Information management and information exchange.

Gather information and report unwarranted restrictions on freedom of movement of IDPs.

Identify factors that prevent IDPs from seeking safety in another part of their country.

3. Advocacy

Raise awareness among UN staff, staff of INGOs and LNGOs, civil society actors, authorities and IDPs; train staff appropriately so that they understand what is required of them in the area of human rights and protection.

Raise awareness among national and local authorities and non-state actors of their responsibilities vis-à-vis IDPs; disseminate translated Guiding Principles (already done in Arabic by UNHCR) to IDPs and authorities in languages they can understand; promote application of Guiding Principles and other international standards; create user friendly formats (comic strips, poetry, paintings, theatre); organize and participate in a local radio programs discussing the rights of the displaced.

Determine information needs of IDPs (security, legal, services, economic) and spread information through appropriate dissemination tools and channels (e.g., brochures, pamphlets, posters, signs, booklets, fact sheets, publications, community leaders, websites, CDs, local NGOs, religious institutions, media (TV, radio, press), conferences, direct contact with IDPs, meetings, briefings).

Advocate for assistance to and protection of IDPs.

Advocate for access to affected populations.

Raise awareness regarding IDPs' rights, their condition and needs, with national authorities, IOs, the media, donors and parties to conflicts when human rights violations occur.

Consider approaches: direct (vocal/public) and indirect (discreet/confidential); aimed at which levels (local/international).

Exchange information to assist the authorities in their task.

Organize meetings, discussions, trainings, workshops, panels and symposiums.

Visit detainees and negotiate their release.

Mediate or negotiate.

Facilitate channels for internally displaced individuals, families, communities and leaders to approach national authorities to seek protection and assistance as well as to possibly prevent displacement.

Advocate for security presence in communities threatened with displacement, in consultation with those at risk.

Advocate access to education for displaced children, and for programs to enable IDPs to earn an income.

Advocate for protection of property rights.

Advocate for programs to replace lost documentation.

Empower people to be able to protect themselves.

4. Strengthening local and national capacity

Advocate with the authorities to acknowledge the Guiding Principles.

Provide trainings on Guiding Principles.

Advocate for and contribute to the development of legal and policy frameworks for the displaced, including on property restitution

5. Establishing coordination mechanisms

It is vital to establish coordination with already existing forums, particularly the IDP Working Group and Cluster F; significant issues should be raised to them as a target for advocating action.

A protection focal point in UNHCR and each implementing partner/LAIC should be established.
Advocate for the establishment of a Protection Working Group and subgroups at the field level.
Maintain constant contacts with relevant authorities and other relevant sources in the community (journalists, teachers, bar association, medical association).
Maintain contacts with ICRC, UNHCR, UNCHR, and UNICEF. Coordinate with the work of partner organizations; support inter-agency coordination. Learn their mandates, expertise and activities.
Consider joint activities with other organizations.
6. Engaging non-state actors
Dialogue with non-state actors should retain a strictly humanitarian character.

Before undertaking an activity it is important to assess the effects of taking such an action, including the likelihood of success in reversing the violations or improving the situation – or making the situation worse or increasing risk - the ability to maintain a presence in the area, and the safety of staff and victims. The effectiveness of activities undertaken should be evaluated, for adoption adaptation of future responses.

Three: Protection as an outcome

LAICs should seek a change in the behaviour of perpetrators, resulting in a reduction in the number of casualties, disappearances, threats, and other measurable human rights abuses over time.

LAICs should seek changes in the actions of responsible authorities and agencies, resulting in the development and practical implementation of policies, commitments and actions to reduce violence, displacement, deprivation and discrimination, and to increase effective national protection and assistance.

LAICs should seek changes in the lives of the IDP population, resulting in reduced levels of hunger and improved levels of health and nutrition, freedom of movement, as well as increased participation in normal livelihood activities, social networks and political life.

Annex A: Strengthening Protection

The following framework of issues and questions are intended to provide LAICs with a lens through which the situation of IDPs should be analysed and to assist in identifying gaps in protection. It is important to note that this framework is not exhaustive.

RECEPTIVE LEGAL, POLITICAL AND SOCIAL ENVIRONMENT

Demographic Profile

- Briefly describe the IDP caseload. Include information on:⁵
 - Demographic and socio-economic profile disaggregated by age, gender and ethnic group;
 - Areas of origin;
 - Vocational background;
 - Identification of groups with special needs;
 - Location;
 - Areas of possible return.
- If accurate figures are not available, indicate why.

A National and Administrative Framework Exists for the Protection of IDPs

- Describe the major statutes and administrative institutions that have a bearing on IDP protection, in particular at the Governorate level.
 - What policy declarations are relevant?
 - What government actors are involved in making and implementing IDP policy at the local level?

Major International Legal Instruments Have been Ratified to Enhance the Protection of IDPs⁶

- Set out the major international human rights treaties to which the State has acceded.
 - Note any reservations thereon.
 - Are the authorities aware of the UN Guiding Principles on Internal Displacement and the Pinheiro Principles?

Strong and Effective Partnerships Are in Place to Strengthen Protection Capacity

- Describe the UN agencies, major international and national and NGOs who are also involved in protection of IDPs in the area.
 - To what extent are they actively engaged in joint planning, field monitoring and evaluation exercises?
- Do strong partnerships exist between host communities, UNHCR, other UN agencies, NGOs, civil society actors and IDPs to strengthen protection capacity?
- Are contacts established/maintained in relevant authorities?

⁵ In order to avoid duplication, such activities should be closely liaised with the relevant agencies (particularly UNHCR and IOM).

⁶ In the Iraq context, this has already been established.

The Host Environment Is Receptive to IDPs

- What are the local reception and attitudes towards IDPs?
Do IDPs place a strain on resources (e.g. water, food, fuel, housing) and services?
Are host communities scared of IDPs?
- Are there public awareness programmes in place that focus on IDPs rights and needs?
- Are teaching materials provided and used in schools to enhance public awareness and understanding of IDP issues?
- Is there a media strategy in place to inform the public on IDP issues?
- Do census and other demographic surveys include IDPs?

IDP Issues are Anchored within National, Regional and Development Agendas

- Are IDPs included or impacted by national poverty reduction and development strategies?
- Are international and regional development actors contributing resources to underpin self-reliance and local integration for IDPs in a manner that sustains the viability of local communities?
- How can IDPs contribute to the local or national economy? Are they regarded an economic asset?

NEW ARRIVALS

Urgent Protection Needs Are Promptly Identified, Assessed and Addressed

- Are mechanisms in place to help identify IDPs with special protection needs?
If so, what are they (e.g. medical/psychological assistance, temporary accommodation)?
Do victims of sexual violence receive necessary treatment and support from an early stage?
- Are the needs of unaccompanied minors and separated children addressed at the earliest possible stage?
If so, how (how identified, with which care arrangements are they provided and are these appropriate)?

Support Is Provided to Meet Basic Necessities of Life

- Are there measures in place to ensure that new arrivals have the basic necessities of life (e.g. food, water, shelter, clothing and health care)?
If not, why?
If so, who provides this assistance?
Is it sufficient to meet need?

Tracing Mechanisms Help Safeguard Family Unity

- Are tracing mechanisms in place for unaccompanied and separated children, and to help reunite families?

If not, why? If so, what agencies are involved in this work and are they coordinating?

IDPS ARE REGISTERED AS SOON AS POSSIBLE

IDPs Are Individually Registered⁷

- What government authorities are responsible for registration?
What agencies support them in this work?
- Are IDPs individually registered in their own names?
If not, why?
If so, are dependants between 16-18 yrs of age informed that they can be registered individually?
- What mechanisms are in place to register all persons seeking protection?
What proportion of IDPs has been registered individually?
How soon after arrival are IDPs registered?
What are the obstacles (e.g. lack of financial and/or labour resources; verification difficulties; opportunities for fraud; reluctance to be registered etc.)?

PROTECTION FROM THE THREAT OF VIOLENCE, COERCION OR DELIBERATE DEPRIVATION

An Effective Security System Is Present in IDP Hosting Areas

- Is there a security presence in IDP hosting areas?
Who is involved (authorities, IDPs)? Are they trained in fundamental protection principles? Are they sensitized to cultural/gender/age related issues?
Where IDPs do participate, to what extent?
What is the participation of IDP women?
- How is security for IDP areas integrated into the national security apparatus?
- Are effective security patrols in place that target the protection of IDP women and children as one of the priorities?
Who makes up these patrols?
Are IDPs able to easily alert the security authorities of security concerns/incidents in their areas?
- What else contributes to the security of IDP hosting areas (e.g. lighting, neighborhood watch, IDP security wardens)?
- Are the security measures sufficient to meet the security needs of the residents?
If not, describe why. Include information on the number of known incidents of IDPs killed and/or wounded (not of natural causes and not as a result of insufficient necessities of life).
What are the major motivations behind these?
Who are the main perpetrators of violence?
- Are IDP camps in a safe location?

⁷ Given the fact that IDPs are nationals of the country and in order to manage large IDP caseloads, there is no need to grant IDP status. However, for assistance purposes, it might be important to register IDPs.

Mechanisms Are in Place to Prevent and Respond to Sexual and Gender Based Violence

- Are IDP adults and children subject to harmful treatment within the family, including battering, sexual exploitation, sexual abuse, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women?
- Are IDP women and girls subject to sexual and gender based violence within the community, such as rape, sexual abuse, sexual harassment and intimidation, trafficking and forced prostitution?
- Are there reporting mechanisms for SGBV cases in place which are utilized? If so, what is the reported number of cases of SGBV?
Are there patterns in occurrence (e.g. more likely to occur while women are carrying out daily activities) and/or perpetrators (e.g. other IDPs, aid workers, police)?
- Are measures in place to protect IDPs from SGBV?
If so, what are they (e.g. are food distribution systems, water collection sites and sanitation facilities designed to ensure equitable access and to minimize the risk of SGBV)
How effective are they?
- What training is provided regarding SGBV (e.g. education and awareness building programmes targeting men, women and children)?
What percentage of the population participated in SGBV training?
If detained, are women accommodated separately from non-close male family members?
- Is there a complaints mechanism and an accountability mechanism to address potential abuse by IDP camp workers?
- What support is available to survivors of SGBV and are they effectively accessed (e.g. psychological and legal counselling, facilitating court proceedings, medical assistance, material support)?
- Do the laws of the country recognize SGBV as criminal behavior?
Do women have effective remedies in the national legal system for SGBV?
If not, why (e.g. is such violence recognized as criminal, are perpetrators prosecuted, are courts assessable, are remedies timely)?
- Are there traditional dispute mechanisms in place to arbitrate SGBV crimes and if so, do they respect survivors' rights?

Specific Programmes Are in Place to Protect Children from Abuse and Exploitation

- Are there mechanisms in place to monitor the physical security of children?
If so, what are they and how effective are they?
- Are children compelled to work, and if so, why?
- Are there known cases of the sexual exploitation of children and other types of abuses and or violence against children (sexual violence, child prostitution, child soldiers)?
What measures are in place to minimize these risks and to take action when they occur?

- Are there measures in place to assist children with mental and/or physical difficulties?
- Are children detained and if so by whom and under what circumstances?
If detained, are they treated in a manner that takes into account the need to be separated from adults unless it is in his or her best interest not to do so?
- If charged with a criminal offence, are children subject to procedures that take into consideration their age and the desirability of promoting their rehabilitation?
- Are child combatants separated from adult combatants and provided special assistance and rehabilitation programmes to assist them to reintegrate into civilian life?
- Are those below the age of 18 years or over considered minors?
What is the policy regarding the “age test” for applicants who claim to be below 18 years of age?

Information Is Disseminated Regarding Rights and Responsibilities

- Is information provided to IDPs on their rights and responsibilities in a language they can understand?
If so, who provides such information and how is it disseminated?
- Are IDPs informed of changes in the quantity, type or method of services and assistance affecting them?
If so, how is this done, and are there measures in place to ensure that information is widely disseminated in a manner that can be understood and that reaches the most marginalized?

FREE MOVEMENT

Restrictions on Movement Are Limited

- Do IDPs have the right to freely move within the State?
- What law or regulation governs the movement of IDPs?
What authority administers it?
What conditions govern the right to move within the territory?
What is the government’s rationale for these?
- Are IDPs confined to camps or other restrictive areas?
- If so, describe where these are located.
Is such confinement time-limited or indefinite?
What is the rationale?
Is their liberty restricted to outside these areas? Must permission be granted to leave such areas? Are there obstacles to obtaining such?
What consequences does that have for IDPs (e.g. access to employment, land, market)?

The Right not to Be Arbitrarily Arrested and/or Detained Is Respected

- Are there reports of IDPs being arbitrarily arrested and detained?
How and to whom are these incidents reported and are they verifiable?
Which authorities perpetrate such acts?
- What is the number of cases of IDPs in detention?

Are there reliable figures to show what proportion of these is in unwarranted detention?

Are minimum standards respected (e.g. informed of reasons, access to the free, impartial, legal assistance; not unduly prolonged, subject to judicial review)?

- Is the detention of IDPs monitored? If so, by whom?
Is access available? To whom?

ASSISTANCE IN MEETING PROTECTION NEEDS

Adequate Food, Water and Clothing Can Be Safely Accessed

In IDPs camps and settlements:

- Is there accurate information on whether IDPs have adequate food, water and clothing?
If so, what is the source of this information and what does it indicate in this regard?
- Is there an adequate food distribution system in place that is accessible and available for all IDPs?
- In IDP camps and settlements with food distribution systems what proportion of IDPs rely on food distribution?
Is there accurate information on key food security indicators, such as malnutrition rates; micronutrient deficiencies; and the percentage of the population with less than standard number of meals per day?
If accurate information is not available, why?
What could be done to provide it?
If only a portion of the population receives food aid, what are the eligibility criteria? Is it verified and updated periodically?
- Is food assistance provided in a protection sensitive manner?
Are there incidents of abuse in the distribution of food aid?
What is the response to these?
Are there measures to ensure that women and underrepresented groups have equal access to food and water?
- Are supplementary and/therapeutic feeding programmes in place?
If so, how is their effectiveness monitored?
- What are the sources of potable water?
Do IDPs have sufficient quantity of safe water to meet domestic and individual needs?
Are sufficient measures in place to keep water points clean – and to minimize the incidence of water born diseases?
- Are IDP clothing needs met?
If so, how? If not, why?
Are sufficient other non food items provided (e.g. soap, sanitary materials)?

In non restricted environments:

- Is there accurate information on whether IDPs have adequate food, water and clothing?
If so, what is the source of this information and what does it indicate in this regard?
- Are there national assistance and welfare schemes in the country?
If so, what are they and do IDPs benefit from them on the same terms as members of the host community?
If not, are there national or international agencies that provide supplementary assistance to IDPs?

- Is this assistance sufficient to enable IDPs to live in dignified conditions?
- If only a portion of the IDP population receives food assistance, what are the eligibility criteria?
Is it verified and updated periodically?
- What non-food items are distributed (soap, sanitary materials, etc.)? How often?

Immediate Shelter and Longer Term Housing Needs Are Effectively Addressed

- Do IDPs initially have adequate and safe shelter and living spaces that provide:
 - Physical protection against the elements;
 - Sufficient space for basic household activities;
 - Essential non-food items;
 - Family unity and privacy;
 - Reasonable distance of essential services;
 - Recreational space available for children?
- Over time are IDPs accorded rights to housing and as favourable treatment as members of the host community? (e.g. assistance programmes, rent controls, protection from discrimination)
 - If not, is the treatment they receive as favourable and no less favourable than accorded to members of the host community generally in similar circumstances?
 - If not, why not?
- Are IDPs taken into consideration in national housing strategies?

IDPs have the Right to Adequate Housing and to not be Arbitrarily Displaced

- If IDPs are residing in public buildings or camps, are they under threat of eviction? Why? From whom? What is the condition of the building or camp in terms of congestion?
- Are there any directives, orders or laws relating to evicting IDPs from public buildings or camp?
- Do the authorities provide notice before carrying evictions? Is any assistance provided or alternatives identified? Are forcible evictions occurring?

IDPs Have Access to Primary Curative and Preventative Health Care

- Do IDPs have access to primary curative and preventative health care services?
 - Who provides these services? Are there obstacles to accessing them? (e.g. inadequate, insufficient number, fees for services, insufficient female health providers)
- Are IDPs granted access to health services on the same terms as members of host community?
 - If so, are they able to avail themselves of such services and if not, why?
- Are health services equally available to women and men?

- Do the services available to IDPs include reproductive health services and family planning, psychological services, emergency services, and immunizations?
- Are there health education services?
Do they include training to prevent and control diseases of public importance (e.g. HIV/AIDS), to promote hygiene and sanitation awareness and training of health workers?
- What are the main health problems affecting the IDP community? How are these known and recorded?
What is the principle cause(s) of these problems?
What impact do the available health services have on reducing these problems?
- What health services are available to those with chronic medical conditions?
Are IDPs with HIV/AIDS integrated into national health care services and treatment protocols?

Education Is Available for Children

- Do the laws and institutions governing the national education system also address the education rights of IDPs?
- Do IDP children have access to free elementary education?
Who finances such education?
- Is secondary education in different forms, including technical and vocational, generally available and accessible to IDPs?
If not, why not?
- What percentage of IDP children between 5-17 years old are enrolled in primary and lower secondary education?
What percentage of children successfully complete the school year?
Are girls disproportionately represented in drop out rates?
What are the obstacles to greater school attendance?
What is the student-teacher ratio?
Are teachers qualified and well trained?
Do schools have sufficient textbooks and school supplies?
- Do parents have the liberty to choose schools for their children, other than those established by the public authorities (provided they meet minimum standards) to ensure their religious and moral convictions are reflected in the education of their children?
- Are the educational needs of disabled children, child soldiers and other with special needs addressed?
If so, how and by whom?

EQUAL BENEFIT AND PROTECTION OF THE LAW
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IDPs Have Access to Effective Remedies in Law

- Are IDPs equal before the law and are entitled without any discrimination to equal protection of the law?

- In practice, do they have effective remedies by the competent national tribunals for acts violating their rights? (access to the courts; availability of legal aid; hearing before impartial and trained police and magistrates; procedures explained and interpretation in a language they understand)
If not, why? (Note whether IDPs are treated differently than nationals and/or whether the absence of such safeguards is a reflection of the lack of national capacity or political will.)
How has the absence of these safeguards impacted on IDPs?

Fair and Public Hearings without Discrimination Are Provided for in Law

- Are IDPs accorded fair and public hearings by an independent and impartial tribunal, in the determination of any criminal and/or contravention of law charge? Do these include the following safeguards:
Prompt and detailed information on the nature of the charge in a language they understand;
Trial without delay and in his or her presence;
Free legal assistance and to have free legal counsel assigned when in the interests of justice to do so;
The assistance of an interpreter;
The right to appeal?
- If these standards are not observed in practice, what are the reasons for this?
Are IDPs treated differently in these regards to nationals?
What have been the significant consequences for IDPs?

Do IDPs Have Access to Traditional Forms of Justice?

- What are the strengths and weaknesses of these?
How do traditional systems of justice interface with national judicial systems?

<h2>ABILITY TO ACHIEVE SELF-RELIANCE AND TO CONTRIBUTE TO THE HOST COMMUNITY</h2>
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Educational and Vocational Programmes Are in Place that Benefit Women and Men Equitably

- Do IDPs have access to vocational training?
What government, international and/or non governmental agencies are involved in such training?
Is such training equally available to women and men? What are their relative participation rates?
- Do IDPs have the right to access higher education on the same terms as members of the host community?
If not, what are the rules governing their admission?
If they meet these requirements, is higher education in practice accessible to them?
If not, why?

- Is there a demonstrable need for language training of IDPs to enable them to communicate in the language of the host community?
Are language courses offered at the earliest opportunity?
Who offers such courses?
What are the obstacles to accessing language training?
- Do opportunities exist for young IDPs to gain access to apprenticeship programmes?
- Do IDPs including women and the host communities, participate in the design and development of self-reliance programmes?

Access to Wage Earning Employment

- Are IDPs treated as favourably as members of the host community in regard to wage earning employment (in the formal and informal sector)?
If restrictions are applied, under what legislative and/or administrative authority?
What restrictions are applicable, what are the reasons for their imposition?
- Are there programmes in place to provide incentives to employers to hire IDPs?
- Are there other barriers that prevent IDPs from enjoying employments rights (work permits, identity/residence cards, quotas etc.)?
- What are the consequences for IDPs on restrictions on their right to engage in wage earning employment?
According to the government, what are the consequences to the host community if these restrictions were not in place?
- Have studies been done on the economic and social impact of IDPs on local communities?
If yes, are the results of such studies available?

Self-Employment Opportunities Can Be Pursued

- Are IDPs treated as favourably as members of the host community in regard to self-employment?
If not, why not?
What restrictions are applicable?
- Do IDPs have access to programmes to support them to start up small businesses (grants, loans, business development services, technical assistance)? If not, why?
If such programmes exist, are they equally available to women and men?
Who administers and funds such programmes?
Have they been evaluated for their success?
- For those living in camps and settlements, do they have access to land and markets?
If not, why?
- For those living in isolated rural areas, who do not come from farming backgrounds, do they have access to other livelihood activities?
- What are the consequences for IPDs on restrictions on their right to be self-employed?

Social Security and Protection Governing Just and Favourable Conditions of Work Are Provided without Discrimination

- Are there legislation/regulations governing employment standards (remuneration, hours of work, health and safety) and social security (state benefits, such as unemployment insurance, old age and disability benefits)?
If so, do IDPs receive equal treatment with respect to members of host community?

IDPs Have the Right to Own Property

- Do IDPs have the right to acquire and to own moveable and immovable property?
If restrictions apply, what are the consequences for IDPs?
- What happened to their properties when they became displaced?
Is it destroyed, damaged, occupied; was it exchanged or sold?
- Are there any directives, orders or laws protecting properties that IDPs were forced to leave?

Annex B: Response Plan

In terms of developing a proper response, the LAICs should follow the following chart:

