

UNHCR'S ROLE IN IASC HUMANITARIAN REFORM INITIATIVES
AND IN THE STRENGTHENING OF THE INTER-AGENCY COLLABORATIVE
RESPONSE TO INTERNALLY DISPLACED PERSONS SITUATIONS

Discussion Paper

Background

For a large part of its history, UNHCR became involved in the response to internal displacement in an ad hoc, case-by-case manner, focusing especially on those situations where IDPs were mixed with, or in close proximity to, refugees or returnees and shared much the same needs and vulnerabilities. Over the years, UNHCR has issued successive internal notes and guidelines, stipulating a number of criteria for UNHCR's involvement, such as (i) a request from the Secretary-General; (ii) UNHCR being able to offer relevant expertise; (iii) the need to ensure that refugee protection was not negatively affected by such involvement; and (iv) the need for adequate funding. These criteria reflected *inter alia* the relevant policy directives and guidelines received from the General Assembly and ExCom. However, both ExCom and the Emergency Relief Coordinator, as well as sister agencies and NGOs, have encouraged UNHCR to be more consistent in its involvement with IDP situations and, above all, more closely linked to the system-wide approach under the coordination of the ERC, who is recognized by the United Nations and its General Assembly as the focal point for the coordination of protection and assistance to IDPs.

In the absence of a single agency with a comprehensive mandate for protection and assistance to internally displaced persons (with the exception, outside the UN system, of the ICRC in situations of armed conflict), a consensus emerged in the 1990s within the Inter-Agency Standing Committee (which includes UN agencies and, as "standing invitees," the IOM, the Red Cross movement and representatives of NGO consortia) that a "collaborative approach" to responding to internal displacement situations was the most appropriate and indeed the only feasible response mechanism. This approach called for all available agencies to contribute within their means and according to their mandates and expertise to the resolution of IDP situations, under the coordination of the Emergency Relief Coordinator at the headquarters level, and at the field level by the Humanitarian Coordinator (or in the absence thereof the United Nations Resident Coordinator).

However, despite agreements on putting the Collaborative Approach into practice, the results failed to match expectations, marked as they were with large gaps in delivery of essential goods and services combined with some areas of duplication, and an ad hoc approach by the system as a whole to the level and comprehensiveness of response. In 2003, an "IDP protection survey and response matrix" found that there were systematic gaps in protection and some other sectors, that agencies took unilateral and mandate-based decisions on their involvement and lacked accountability, and that Humanitarian Coordinators were not clear on their responsibilities or

accountability to assess and coordinate a comprehensive response. At a workshop hosted by Canada in February 2004 on the future of the international response to internal displacement, frustration was expressed by many at the failings of the collaborative approach, the unpredictability of response, and the apparent inability of agencies to collectively overcome mandate gaps and turf battles.

Reinforcing the Collaborative Approach: 2004 – early 2005

Efforts have taken place on a number of fronts to improve the Collaborative Approach, starting with a headquarters-level review and update of a ‘policy package’ led by the inter-agency IDP Unit in OCHA¹ and endorsed in September 2004. Country-level assessment and consultation procedures were suggested and Humanitarian Coordinators and Country Teams were given guidance on which agency to turn to for key elements in the response. The IDD focused on eight countries deemed a priority and pushed for greater commitment from operational agencies to fill outstanding gaps in the IDP response.

UNHCR was deeply involved in this process with other agencies, and followed up the ERC message to Humanitarian Coordinators and Country Teams, transmitting the new “policy package,” with its own internal instruction to UNHCR field representatives. At the 2005 March Standing Committee, the Assistant High Commissioner addressed the IDP issue and delivery gaps, commenting that UNHCR had a ‘predisposition’ to deal with IDPs provided it is at the request of and in collaboration with our UN and other humanitarian partners. Given UNHCR’s unique expertise in the protection sphere as well as with issues related to shelter and camp management/coordination matters, the AHC stressed that UNHCR had a contribution to make

UNHCR has had a P5 secondee in both the IDP Unit and the Division. The Office has been in constant exchange with the IDD, and in Country Team discussions at the national level, on its role in several of the priority countries, especially Liberia, Colombia, Uganda, Somalia and Sudan. The IDD has sought deeper commitment and involvement from UNHCR, particularly in lending expertise for protection assessments and strategies, but also to take on appropriate operational activities on behalf of IDPs. UNHCR sought to respond better to the expectations of the IASC for a greater application of its capacities and expertise to the benefit of IDPs, and acted to improve the level of its field offices’ participation in Country Team assessment and strategy processes for IDPs.

Nevertheless, across the key IDP emergencies, the IDD still observed the existence of major gaps in the response of the UN and broader humanitarian system, a significant example being in those situations where IDPs are close to refugees or returnees and where UNHCR declined to be involved according to its existing internal guidelines. In general, IDD found that agencies were still practicing ‘pick and choose’ and that the Collaborative Approach could not fulfill its objectives in the absence of a more predictable response by agencies, based on firmer, prior commitments.

¹ The IDP Unit was upgraded to an Internal Displacement Division within OCHA (July 2004) to drive and support implementation of the revitalised “Collaborative Response.”

The Humanitarian Response Review

Following what was perceived to be a slow and inadequate humanitarian response to the crisis in Darfur, and the evident gaps left by that response in both functional sectors such as camp management and geographic areas of Darfur, the Emergency Relief Coordinator commissioned an independent Humanitarian Response Review to assess what the main problems and gaps were in the system's ability to respond to emergencies. This involved all IASC members in the first months of 2005.

In parallel, some donor governments also launched ideas and initiatives, still being developed, that are based on the same concern about gaps, with one focus being on the need for stronger humanitarian coordination in the field. The Secretary-General's Report "In Larger Freedom" took up several of the ideas emerging from all these initiatives, noting the need to improve the response to IDP situations and to strengthen humanitarian coordination in general.

Recommendations from the report of the HRR, finalized in July 2005, cover areas which include more predictable funding, strengthened coordination mechanisms, better preparedness measures and improved common services. Building on proposals originally mooted by the IDD in the context of the discussions on strengthening the Collaborative Approach, the HRR also addressed the "gaps" issue by proposing that, in each functional sector where the combined response of the humanitarian agencies could not meet the needs, such as water and sanitation and the protection of IDPs, a "lead agency" be designated to coordinate the efforts of all organizations active in the sector, to assess needs and improve global response capacity. The lead agency would be accountable at the country level to the Humanitarian Coordinator for ensuring the system's overall delivery within its sector.

The concept of "sector leaders" and "clusters"

The advantage sought by both the HRR and IDD in proposing a system of "sector" leaders was to provide a "first port of call" in each sector for any Humanitarian Coordinator to rely on in planning and implementing responses to an emergency. Similarly, in the event of a lack of actors and capacity on the ground, the lead agency for each sector would seek to mobilize the necessary resources and additional players while remaining, in effect, a provider of last resort. Based on needs and on the principle of mutual accountability among agencies within the Collaborative Approach, rather than on a unilateral interpretation of mandates by each agency from case to case, the aim of the sector-leadership idea was to provide predictability and accountability in the response to humanitarian emergencies.

The Emergency Relief Coordinator Jan Egeland appealed in June 2005 for a major and rapid inter-agency effort to further define and implement the ideas pertaining to sectoral capacity-building and leadership.² IASC members agreed to his proposal to create a number of working groups (nine in total), each chaired by a relevant operational agency, that would flesh out the concept by reference to a particular sector deemed to suffer from serious gaps in global coverage and delivery (respectively: protection, camp coordination & management, logistics, emergency telecommunications, nutrition, water & sanitation, emergency shelter, emergency health and early recovery). This work, now in the process of consolidation and completion, will be

² Although the ERC has given top priority for the moment to the problem of filling gaps and ensuring predictability in specific, functional sectors, other issues on the humanitarian reform agenda, and covered by the Response Review, are also being dealt with, or will be dealt with shortly. These include *inter alia* the issue of funding mechanisms, the strengthening of the Coordination function in the field, common services and the structure and functioning of UN "integrated missions."

presented to a meeting of IASC Principals in New York on 12 September 2005, with a view to reaching agreement on the basic concept, the responsibilities of clusters and their leaders, and on which agency should lead which sector. UNHCR has emphasized at all stages that its commitments within this process are subject to discussions with, and the support of, its Executive Committee.

At an early stage in discussions, several key points were made by UNHCR and others:

- Although the discussions currently taking place at the initiative of the ERC are not limited to IDP situations alone, the focus on predictability and gap-filling has a special relevance to this category. As far as UNHCR is concerned, the Office's focus of responsibilities within the clusters should be on IDPs and associated affected populations. It is agreed that the exercise does not apply to refugee situations, where UNHCR's mandate is comprehensive enough and where there already exists an elaborate network of agreements between UNHCR and other agencies and NGOs, whereby UNHCR's direct operational role is replaced or complemented in specific sectors by others.
- A sector leader at the global level need not be the leader within each and every Country Team. The role of "sector leader" is to provide a "port of first call" for the Humanitarian Coordinator and to underwrite the overall system by serving as "provider of last resort," but, where actors and resources are already sufficient, the sector leader will play a less operational role, which could include activities such as monitoring, advising and planning. Under no circumstance should the lead role be interpreted as an invitation or obligation to displace agencies already active in the field.
- Responsibilities and accountability accrue not only to the sector leader but also to each member of a sectoral "cluster," and some clusters have elaborated complex sub-structures where it was felt that considerable precision is needed in spelling out the tasks of each member.
- Clusters and their leaders will have among their priority tasks to ensure capacity-building (global, regional, national and local) and the setting and monitoring of standards and best practices, in addition to improving the speed, quality and coverage of emergency response in specific situations.

UNHCR led the initial process over the summer months in 3 clusters: protection, camp coordination & management, and emergency shelter. The Office has also actively participated in the other working groups. Carried out at extremely short notice and in very little time, the work done by the groups has been a positive example of inter-agency dialogue and cooperation.

The inter-agency process after 12 September

Work will proceed within the clusters to clarify any outstanding questions on the basic concept, to assess and build capacity for emergency response in the various sectors, to pursue work on standards and indicators, and to develop implementation plans for putting the agreed concepts into practice. These tasks would in effect be an immediate application of the "global" responsibilities of the clusters and leaders. They will already have resource implications which UNHCR, for its part, will do its best to meet within its staffing policy of no net expansion in its headquarters staff complement.

“Operational rollout” of the sector concept is currently focused on filling outstanding gaps in all or some of 8 countries identified by the IDD as presenting the most serious gaps in operational delivery (this reinforces UNHCR’s view that the overall initiative has its greatest relevance in such situations).³ Operational application of the new concept would also extend to major new emergencies, or at least to the one or two most urgent of these. We do not have any current indication of any operational activity within the proposed framework being proposed for implementation before 2006.

The likely demand on UNHCR within the proposed new arrangement

UNHCR is likely to be the agreed lead agency in the three areas in which it has already chaired the preparatory working groups over the summer, i.e. protection, camp coordination & management, and emergency shelter. Like other prospective “lead agencies,” UNHCR is carefully considering the resource and staffing implications; it furthermore intends to consult with its governing body on the optimal and most practical arrangements through which it can deliver.

UNHCR is acutely aware of the size of the challenge offered to it and to its sister agencies by the ERC, and of the fact that this challenge involves a category of beneficiaries whose needs could compete with UNHCR’s priority focus on refugees and other persons in need of international protection. Although the proposed new responsibilities would be within the letter and the spirit of previous policy directives and guidelines from the General Assembly and ExCom on involvement in IDP situations, for the first time UNHCR, like other agencies, would be held accountable, for specific sectors and within the humanitarian coordination system, for delivery on a permanent and global basis (albeit one which would be reached in incremental steps).

UNHCR has a duty, as part of the United Nations and the broader humanitarian system, to do everything it can to help the ERC achieve a lasting improvement to response capacities and performance. At the same time, the High Commissioner is determined that this should not be to the detriment of UNHCR’s ability to protect and assist refugees, and is equally conscious of the Executive Committee’s own strong concerns in this respect. He therefore intends to keep ExCom and the Standing Committee fully informed of developments, to allow for a meaningful dialogue. From the outset, UNHCR intends to respect certain basic limits and safeguards that it sees as essential and which have been included in the reports of the working groups which will be submitted for approval to the principals meeting:

- As already mentioned, the exercise in creating sectoral clusters under lead agencies is not meant to apply to refugee operations. While it could extend to associated, locally-resident affected populations, the main focus of UNHCR’s responsibilities within the clusters should be on IDPs. UNHCR has been granted by the General Assembly and ExCom a competence in IDP situations, where the Secretary-General or other relevant body of the UN requests our intervention, but it does not have the competence to be involved with much broader categories of citizens living within their own countries.
- In accordance with General Assembly resolutions our activities on behalf of IDPs must not undermine the institution of asylum, including the right to seek and to enjoy in other countries asylum from persecution. How this proviso may be interpreted is examined in Annex I to this note.

³ The countries are Burundi, the DRC, Liberia, Sierra Leone, Somalia, Sudan, Colombia and Nepal

- There should be no transfer of resources from refugee operations. UNHCR would request allocations from the expanded CERF, once it is approved with the envisaged addition of a grant element available for sudden-onset emergencies, neglected crises, and contingency planning and preparedness measures, and through other mechanisms such as the CAP which would guarantee transparency in maintaining the distinction between the two categories of beneficiaries and ensuring that resources cannot be transferred from the one to the other. UNHCR would only use its Operational Reserve if guarantees have been received as to its replenishment. The principle of preserving refugee resources from any diversion to other categories of beneficiaries will also require that new mechanisms be put in place within UNHCR's budgetary structure to ensure transparency and the maintenance of appropriate "firewalls" between refugee and IDP budgets. The High Commissioner looks forward to a thorough discussion with the Executive Committee on this issue prior to submitting concrete proposals for adoption by the Committee.

Other safeguards and limitations would be inherent in the overall system of sector leadership and clusters as it is emerging from the inter-agency discussions:

- UNHCR's lead role in three clusters would not apply where internal displacement is caused solely or very substantially by natural disasters or human-made calamities (e.g. nuclear accident or any major ecological disaster).
- Where, following a joint needs assessment and protection strategy development by the UN/IASC country team, there is a finding by the Country Team in a particular situation that another agency is better placed to assume primary managerial responsibility and accountability in one of the three sectors globally led by UNHCR, leadership in that country will pass to the other agency identified. Factors contributing to such a finding might include where the mandate of another organization is more directly relevant to the specifics of the situation; where another agency present in the country concerned has, resource-wise, substantially greater capacity on the ground to undertake relevant activities than UNHCR could muster; or where another agency has pre-established modalities of cooperation with relevant actors in the country concerned that would be substantially hindered by an assumption of primary managerial responsibility and accountability by UNHCR.
- Where UNHCR's involvement with internally displaced persons and affected populations poses a serious threat to the safety and security of refugees, UNHCR staff, associated personnel, and/or UNHCR or associated operations. Indeed, this criteria would not only apply to UNHCR staff, and would not be limited to the new approach, but would result from a decision by the Designated Official for security, acting within his or her existing responsibilities at the country level.

Annex I

Impact on refugee protection: situations in which the institution of asylum could be undermined by UNHCR participation in, or leadership of, cluster operations in favour of internally displaced persons

- Where involvement with internally displaced persons and affected populations is part of an overall national or regional strategy, including framework agreements, to contain displaced persons within the borders of their country, in contravention of the right to seek and to enjoy in other countries asylum from persecution.
- Where UNHCR's involvement with internally displaced persons and affected populations poses a serious risk that countries of asylum may renounce protection obligations toward refugees and asylum seekers on the basis that the United Nations protection response in the country of origin would constitute an "internal flight alternative".
- Where the perception of UNHCR's impartiality would be negatively impacted, to the extent that humanitarian access to refugee populations in need would be seriously jeopardized/diminished; or where involvement with internally displaced persons and affected populations would compromise relationships with host governments or parties to a conflict to the extent that there would be a substantial negative impact upon protection and assistance activities for refugees.
- Where involvement with internally displaced persons and affected populations within a collaborative inter-agency framework could lead to a conclusion or an interpretation by countries of asylum that Article 1D of the 1951 Convention is applicable.