

INFORMATION, COUNSELLING, AND LEGAL ASSISTANCE (ICLA) HANDBOOK

NRC

NORWEGIAN
REFUGEE COUNCIL

CONTENTS

PART 1 – INTRODUCTION	5
1.1 Background to this Handbook	5
1.2 Readership	5
1.3 Using the Handbook: content and references	5
PART 2 – NRC MANDATE AND GOVERNANCE	6
2.1 NRC's Mandate	6
2.2 NRC Governance	6
PART 3 – NRC AND ICLA	7
3.1 What is ICLA?	7
3.2 Why provide information and legal assistance?	9
3.3 The history and current deployment of ICLA	12
3.4 The ICLA Policy	13
3.5 ICLA's legal and policy framework	15
3.6 Coordination with other core activities	21
PART 4 – ICLA ISSUES IN DEPTH	23
4.1 Civil documentation	24
4.2 Housing, land and property (HLP)	29
4.3 Gender-based violence (GBV)	38
PART 5 – ICLA ASSESSMENTS AND PROGRAMME FORMULATION	45
5.1 Assessments	45
5.2 Programme formulation	56
PART 6 – ICLA METHODS	66
6.1 Information	66
6.2. Counselling	70
6.3. Legal Assistance	71
6.4. Advocacy	81
6.5. Protection and return monitoring	84
6.6. Capacity Building	85
PART 7 – ICLA IMPLEMENTATION	89
7.1 Beneficiary selection criteria	89
7.2 Laws & standards applicable to legal practice	91
7.3 Free service provision	92
7.4 Legal aid procedures	93
7.5 Information management	93
7.6 Outreach activities	98
7.7 Communications Tools	100

7.8 ICLA in natural disasters	104
7.9 Cross-border programming	110
7.10 Building partnerships	112
7.11 Programme Monitoring	114
7.12 The Core Activity Database	116
7.13 Evaluation	117

PART 8 – ICLA OPERATIONS AND ADMINISTRATION 120

8.1 Funding	120
8.2 Human resources - international	120
8.3 Human resources - national	121
8.4 Budgets	124
8.5 Logistics	126
8.6 Corruption	126
8.7 Security	127

PART 9 – ICLA EXIT AND CLOSURE 130

9.1 ICLA Closures	130
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APPENDIX 1 – The ICLA Policy 135

APPENDIX 2 – The ICLA Core Activity Database Definitions and Users Notes 140

APPENDIX 3 – Index of resources 153

APPENDIX 4 – Index of links to NRC documentation 161

APPENDIX 5 – Sample documents from ICLA Programmes 163

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PART 1 – INTRODUCTION

1.1 Background to this Handbook

This Handbook has been drafted to guide NRC field and HQ staff in the establishment, implementation, management and closure of ICLA programmes. While the ICLA Policy provides the overall framework for ICLA, this Handbook defines the scope of the key objectives identified in the policy and seeks to provide answers to frequently raised issues, practical examples, lessons learned and valuable materials for writing project proposals. In this manner, NRC seeks to prevent the 'reinvention of the wheel' for each ICLA programme and focus on maximising the positive impact of the programme for ICLA's beneficiaries.

1.2 Readership

This Handbook is intended to assist the following people at all stages of programming:

- NRC Country Directors, Programme Directors, ICLA Project Managers and Project Coordinators
- NRC HQ Programme Coordinators and Core Activity Advisors
- National ICLA staff
- Consultants working for NRC

1.3 Using the Handbook: content and references

This Handbook contains:

- a reference to NRC's overall mandate and policies from an ICLA perspective;
- a succinct review of the ICLA policy;
- information relevant to the planning, implementation, management and exit of the ICLA programme;
- examples of programme activities and lessons learned to guide NRC on good ICLA practices; and
- links to internal and external documents for further information on particular topics
- all internal and external resources are listed in the appendixes and hyperlinked to the files in the CD-ROM for easy reference. When reference is made to a document only available in html the url address is available in the main text and the respective Appendix


This Handbook does not replace any official NRC policy or documents and is not intended to be a complete technical resource for ICLA programmes.

PART 2 – NRC MANDATE AND GOVERNANCE

2.1 NRC's Mandate

The Norwegian Refugee Council is a foundation that was established under Norwegian law in 2005. Prior to 2005, the NRC was an association established by Norwegian humanitarian aid organisations specializing in refugees. The foundation is headed by a Board of Directors which holds the overall responsibility for the administration of the organisation and has broad decision making powers, including appointing the NRC Secretary General and representing the organisation in third party dealings.

NRC's mission statement, commonly referred to as “the mandate”, reads as follows:

 *The NRC shall promote and protect the rights of all people who have been forced to flee their countries, or their homes within their countries, regardless of their race, religion, nationality or political convictions.*

This will be achieved by acting as an independent and courageous spokesman for refugee rights nationally and internationally, by providing humanitarian assistance in emergency situations, and by strengthening the capacity of the UN organizations to offer and coordinate international aid and protection.

The NRC shall in all ways seek to provide viable, durable solutions with regard to both its spokesman activities and its emergency relief efforts.

2.2 NRC Governance

Under the general framework of the NRC mandate, NRC has produced a large number of policies, Handbooks and other materials which define the scope of NRC's assistance and how it will be provided. Some of the most important of these documents are listed below.


➔ The most important documents are listed in Appendix 4

PART 3 – NRC AND ICLA

3.1 What is ICLA?

Unlike other NRC Core Activities, which are tangible and generally very familiar to those working in the humanitarian sector, ICLA is a relatively complex and abstract programme. Many stakeholders will be entirely unfamiliar with the concept of using the law and information as tools to promote the rights of beneficiaries.

Another reason why the ICLA concept can be difficult to grasp is the broad scope for variation in programming. These variations are driven by the legal systems and institutions with which ICLA interacts, whether the programme's beneficiaries are IDPs, refugees or both and whether NRC is providing assistance during a conflict, post-conflict or post-disaster phase. The specific objectives, modes of implementation and activities of an ICLA programme within the well-developed judicial system of Colombia, for example, will be vastly different to those in rural Congo, where the State may be entirely absent and even traditional systems of justice may no longer be operating.

 “Perhaps in some contexts, “ICLA” is a brand name, referring to a specific set of activities which are well-established, consistent, and known to beneficiaries, partners and authorities. Within Sudan, and in Uganda, although the NRC programmes and activities are means to the same end – voluntary, informed and dignified return, local integration or peaceful and sustainable reintegration of returnees – the humanitarian contexts and the manifold activities we describe as ICLA vary considerably”

Project Coordinator, South Sudan, 2008.

In short, however, ICLA may be described as a **humanitarian assistance programme aiming to contribute to durable solutions for displaced persons and to fulfil their rights** through the provision of information and legal services.

Within this overarching goal, ICLA's specific objectives are to:

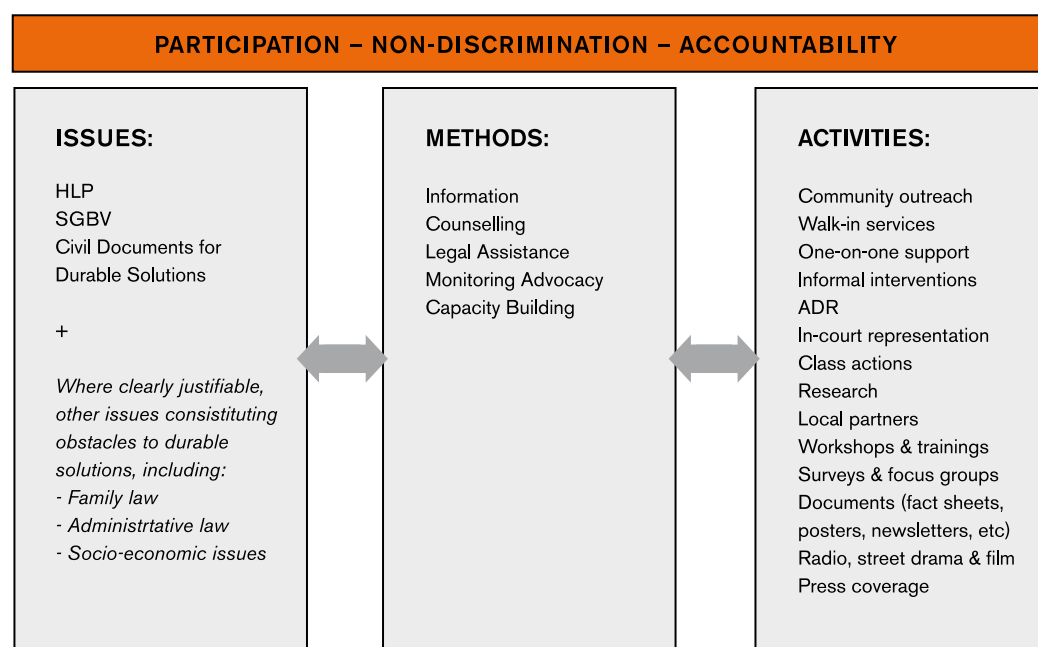
- overcome legal obstacles, particularly related to housing, land and property;
- contribute to the recognition of legal status and access to rights and services that are dependent on obtaining personal documents;
- contribute to the solution or improvement of identified and documented issues of concern through advocacy initiatives;
- contribute to the best basis on which target groups can decide whether to return or integrate locally; and
- improve access to justice to the displaced through the provision of legal assistance.¹

1) Although this objective is not contained in the ICLA Policy, more recent descriptions of the role of ICLA, such as in the NRC Protection Policy (March 2008) include this objective.

As all ICLA programmes involve the provision of services to beneficiaries to assist them in fulfilling their rights, ICLA can also be described as an **“applied protection” programme**. This service provision component constitutes a key basis of differentiation between ICLA and many other human rights and protection projects.

ICLA may also be categorised as a **rights-based programme** as the entire programme is designed to promote the awareness and enjoyment of human and legal rights of highly vulnerable populations².

The issues addressed by ICLA to achieve the above objectives, the methods through which it addresses these issues and its specific activities, are represented in the diagram below.



This categorization of the ICLA programme into issues, methods and activities was developed in late 2008 to provide greater clarity in the definition and implementation of ICLA and to provide standardised nomenclature across all ICLA programmes. The representation of ICLA will not correspond with all programmes as of January 2009. However, as new programmes are established, the new nomenclature will be adopted. Further, not all ICLA programmes will pursue all of the issues, utilise all methods or undertake all activities listed in the diagram above. These are to be selected depending on the requirements of the country context.

The key ICLA issues have been identified by NRC through years of firsthand experience as common problems faced by displaced persons in every displacement situation and many natural disasters which constitute obstacles towards reaching durable solutions. These are elaborated further in **Part 4**.

² It is not necessary, therefore, to consider how to take a rights-based approach to ICLA as it is already inherently rights-based.

While Housing, Land and Property (HLP), Gender Based Violence (GBV) and civil documentation are the key ICLA issues outlined in the ICLA Policy, ongoing practice has shown that for ICLA programmes to remain relevant and to be perceived as legitimate by beneficiaries, other obstacles to durable solutions may also need to be addressed. For example, the programme in Sri Lanka has sometimes intervened to prevent the arbitrary detention of IDPs by assisting with the delivery of ID cards to detainees, since the lack of documentation was the cause cited for their continued detention. The right not to be arbitrarily detained is not one of ICLA's core issues, but under certain circumstances, it is necessary to extend the scope of ICLA's services for the programme to remain relevant to the beneficiaries.³

It is also important to note here that essentially every issue which constitutes, or has the potential to constitute, an 'obstacle to durable solutions' may become a 'legal issue', that is, an issue which involves the violation of a beneficiary's legal or fundamental human rights and an issue in respect of which legal assistance is required or provided.

For the purposes of project proposals and the introduction of ICLA to Government and other stakeholders, the broad conceptual descriptions of ICLA above may not suffice. Therefore, this Handbook sets out a large number of concrete examples of ICLA methods, activities and achievements to date which may be used to facilitate the conceptualisation of ICLA programmes and to explain (or "sell") the programme to others.

3.2 Why provide information and legal assistance?

It is broadly acknowledged that while in displacement, individuals and groups are often more vulnerable than the general population and are subject to human rights abuses, disempowerment and marginalization.

Rationale applicable in all contexts

In all contexts in which ICLA operates, ICLA uses information and legal assistance as a protection tool or a means of obtaining the: *"full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. HR law, IHL, refugee law)"*.⁴

Those 'rights of the individual' which ICLA seeks to secure through providing information and legal assistance (specifically with respect to civil documentation, HLP and GBV), may range from property rights to the right to a legal identity, shelter, education and health, to labour rights, entitlements to social services and Government benefits, land rights and contractual entitlements (including pensions and salaries).

Accordingly, in many instances, the rationale for providing information and legal assistance is that **ICLA is an effective, alternative method for addressing common humanitarian and protection issues**. Both beneficiaries and

3) As an example, ICLA Burundi found that after periods of massive and prolonged displacement, many children were born out of marriages. Upon returning, major relationship problems have arisen surrounding the acceptance of such children, as well as in relation to question of inheritance of family property. ICLA Burundi has provided services from its counselling centres in response to such issues although ordinarily beyond the scope of the programme.

4) NRC Protection Policy, March 2008

humanitarian workers without a legal background will generally not recognize the legal aspect of such issues. Two examples are set out below.



Example 1: Female IDPs in Nepal commonly stated that they had no legal problems but that their biggest concern was a lack of funds to purchase school uniforms and supplies for their children to attend school. For registered residents of a school district, however, these items are usually provided for free. With this information, NRC was able to advise and/or assist these IDPs to register as residents in their district of displacement. This facilitate their access to available government benefits and their children's entry to school.



Example 2: In major disasters, children's issues are usually left to the remit of organisations like UNICEF and Save the Children, which provide assistance to meet basic needs, including clothing and shelter. However, in the tsunami and Pakistan earthquake, these organisations failed to identify legal guardianship as an essential issue for the protection of orphaned children. Without the appointment of a guardian, these children were unable to access rehabilitation schemes and compensation which would have addressed many of their protection needs on both short and long-term basis.

The **key message** from these examples is that with more rights-based information and assistance, alternative and, in many cases, **better solutions can be found to common humanitarian and protection problems.**

Possible rationales in specific contexts

Depending on the country context and the phase of the relevant conflict or disaster, the **rationale for providing information and legal assistance** to displaced persons may also be expressed using one or a combination of the following:

- persons vulnerable to legal and human rights violations need information to be able to make informed decisions on all issues affecting their well-being and that of their families/communities in order to enhance their chances of survival and/or work towards a durable solution.
- As the Special Representative for the Human Rights of IDPs has noted repeatedly, IDPs need comprehensive information in order to make informed decisions on which solution will best put an end to their predicament. Awareness of legal procedures for repossessing property, for example, might be useless if not complemented with information regarding the socio-economic and security conditions in a return or resettlement area.
- persons vulnerable to legal and human rights violations need to know their rights and entitlements in order to seek remedies when violations occur in order to work towards/achieve a durable solution.

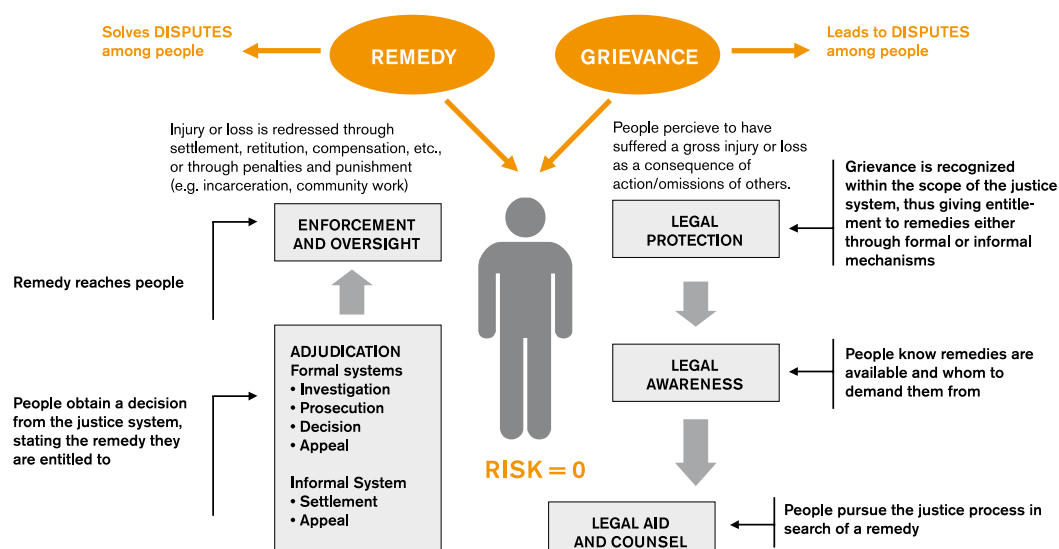
- persons vulnerable to legal and human rights violations need to be able to operate effectively in legal contexts to improve their access to and control over the systems and decisions which affect their lives in order to achieve a durable solution.⁵

The particular rationale used will reflect upon the stability of the legal systems in the relevant country context. In the midst of an emergency, for example, it may not be appropriate to raise awareness of rights and entitlements where there is no possibility to access these due to the complete absence of functioning rule of law systems since this may raise expectations and even endanger the well-being of beneficiaries. Particular attention should be paid to the Do No Harm principles in this regard. See Section 3.5.6. for more details on the Do No Harm approach.

In post-conflict and post-disaster situations, in contrast, where systems for enforcing rights exist, the rationale for the programme may also be described as enhancing beneficiaries 'access to justice'.

'Access to justice' is the terminology most commonly used by UN organisations such as UNDP⁶ and refers to the ability of people to seek and obtain a remedy through formal or informal institutions of justice, in conformity with human rights standards. Note that although 'access to justice' is a popular label in the development community, it is often used incorrectly. In situations where there is no possibility of achieving justice, for example, where there are no independent courts, this term may be inappropriate. Equally, in certain contexts, the only way of accessing some form of justice may be through customary or informal mechanisms which may be inconsistent with international human rights regimes but that is the only avenue for individuals to overcome obstacles to durable solutions. The justice process is well illustrated in the diagram below extracted from UNDP's Guide on Justice Programming: Access for All.

THE JUSTICE PROCESS



5) The term 'legal rights' refers to any rights and entitlements of a displaced person in the relevant national legal system including customary systems of law; 'human rights' is used as a generic term to refer to human rights law, IHL and refugee law, in accordance with the ICRC definition of protection.

6) See Appendix 3, for example, UNDP, 'Access to Justice Practice Note, 2004.

In more developed and stable contexts, the somewhat broader concept of ‘**legal empowerment**’ may also be used as a rationale for ICLA programmes. ‘Legal empowerment’ is a term increasingly used in development contexts and may be described as: “the process through which the poor become protected and are enabled to use the law to advance their rights and their interests”.⁷

The final rationale offered here for the provision of ICLA assistance is that, particularly in post-conflict situations, ICLA may contribute to the **strengthening of the rule of law** by encouraging the respect and enforcement of human rights and legal rights and the accountability of decision makers, and strengthening the capacity of Government institutions.

➔ Further resources:

UNDP Access to Justice Practice Note

UNDP Practitioners Guide to a Human Rights Based Approach to Access

UNDP Regional Centre in Bangkok - Resources on Access to Justice

<http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/resources/>

Making the law work for everyone. Final report of the Commission on Legal Empowerment of the Poor

7) Commission for Legal Empowerment, ‘Making the law work for everyone, vol 1’, 2008.

See also, Institute of Development Studies, UK; internet portal ID21, ‘Legal empowerment: A rights-based strategy for improving governance and alleviating poverty’: “Legal empowerment helps the poor understand and influence government, particularly regarding the rights, needs and issues to which they attach highest priority ... While legal empowerment contributes to good local governance and getting laws enforced, it can also advance national legal and institutional reform by educating, mobilising and drawing on the experience of disadvantaged groups” at: <http://www.id21.org/insights/insights43/insights-iss43-art01.html>

3.3 The history and current deployment of ICLA

The origins of ICLA are found in the INCOR project (Information and Counselling on Return) which has provided assistance to refugees and asylum seekers in Norway since 1995 and the Civil Rights Project (CRP), a pure legal aid project that commenced in Croatia in 1996. The CRP was expanded into an NRC stand-alone programme and was extended to other countries of the former Yugoslavia.

In 2001, NRC launched ICLA as a core activity. At first, it was called ICLA-Return Facilitation. This concept was based on the experience that legal aid alone is not sufficient for refugees and IDPs to return to their places of origin. For IDPs and refugees to exercise their right to a free and informed decision, it was found that they also need counselling and reliable information about return conditions.

In 2006, NRC adopted the current ICLA Policy and dropped the words ‘return facilitation’ from the programme title in order to encompass the more comprehensive concept of durable solutions: return, local integration and resettlement. As NRC gradually exited the former Yugoslavia, it began implementing ICLA programmes in Afghanistan, Pakistan and Uganda. Caucasus, Congo, Burundi and Sri Lanka soon followed. As of January 2009, NRC is implementing ICLA programmes in 12 countries:

Afghanistan	Conflict returnees and IDPs
Pakistan	Afghan conflict refugees
Sri Lanka	Conflict IDPs, including those subsequently affected by the tsunami.
Nepal	Conflict IDPs, with addition of new conflict programme areas during the course of programme.
Sudan	Conflict IDPs in North Sudan and conflict IDPs and refugee returnees in South Sudan (both from Uganda but also from within Sudan)
Uganda	Conflict IDPs and returnees in northern Uganda and Sudanese refugees in West Nile
DR Congo	Conflict IDPs in North Kivu, South Kivu and Katanga
Burundi	Conflict IDPs, and returnees and expellees from Tanzania Conflict refugees from DR Congo
Liberia	Conflict IDPs, returned IDPs and returned refugees
Ivory Coast	Conflict IDPs
Colombia	Conflict IDPs in Colombia and persons of concern in Ecuador, Panama and Venezuela
Georgia	Conflict IDPs. In 2009, also targeting returnees, including to the former "buffer zone" or adjacent areas to South Ossetia and Chechen refugees.

The countries in which NRC has closed ICLA programmes to date are: Azerbaijan, Pakistan (IDPs affected by earthquake and floods) and Angola.

3.4 The ICLA Policy

8) The introductory section of the ICLA Policy does not refer to the option of resettlement in a location other than the displaced persons' place of origin or current residence. However, this is mentioned as an option in paragraph 4.1.2 of the policy. Paragraph 4.1.2 also refers to return as the preferred option although in the NRC Protection Policy (March 2008) return, integration and resettlement in an alternative location are mentioned as equally valid, durable solutions. The latter approach is also supported by the Guiding Principles on IDPs (see section V, principles 28 – 30). Traditionally NRC has abstained from providing assistance to refugees seeking resettlement to third countries, being this, is within the mandate of UNHCR.

The ICLA policy was adopted in 2006. The challenge faced by the drafters of the policy was to develop a framework for a programme that was still in its infancy and constantly changing to meet the challenges of new security, legal and political contexts. Today, the programme continues to develop, with continuing efforts being made to clarify the scope of the programme. The ICLA Policy remains, however, the basic framework of the ICLA programme. Key provisions of the Policy are described below. A full version of the policy is attached (see Appendix 1).

Objectives

Within the policy's broad objective of contributing to durable solutions for refugees, IDPs and returnees and to assist them to obtain their rights, the specific ICLA objectives set out in the Policy are to:

- contribute to the best basis on which target groups in exile can decide whether to return or integrate locally;⁸
- overcome legal obstacles, particularly related to housing, land and property issues;
- contribute to the recognition of legal personality and access to rights and services that are dependent on obtaining personal identity

- documents;
- contribute to the improved protection of particularly vulnerable individuals, such as gender-based violence victims and female heads of households;
- based on return monitoring, mobilise remedies to threats to protection and durable solutions; and
- contribute to the solution or improvement of identified issues of concern through advocacy.

More recent descriptions of the role of ICLA, such as in the NRC Protection Policy (March 2008), also include the following objective: improving access to justice to the displaced through the provision of legal assistance.

Target groups

ICLA's target groups primarily include refugees, IDPs and returnees, with particular attention to be paid to vulnerable individuals and groups. Non-displaced, other ethnic groups or host populations are classed as 'secondary' target groups which may be included in a programme's scope to avoid the perception of discrimination or bias.

Implementation

The ICLA Policy states that, generally, NRC will not use implementing partners but may cooperate with other partners where principles of neutrality and other NRC values are maintained.⁹ With respect to implementation, the ICLA Policy also foresees the possibilities of:

- cross-border programming;
- the establishment of referral systems to address requests for assistance outside the scope of NRC's priorities; and
- the provision of training on legal issues to target groups and key local actors in order to enhance understanding of rights and the applicable law.

Methods

The policy refers to three basic methods: legal assistance; counselling; and provision of information; as well as the possibility of monitoring and advocacy.¹⁰

Phases and time frames

The ICLA policy does not categorically state at which stage in a conflict ICLA should be implemented but it shapes how an ICLA programme may look in different phases of a conflict:

- ICLA is most relevant in post-conflict situations where there are conditions conducive to durable solutions;
- In conflict situations, ICLA will be associated with other activities, e.g. camp management to help maintain focus on durable solutions;¹¹ and
- ICLA should not be implemented in protracted displacement situations.

In any event, a long term perspective for engagement is necessary to ensure enough time to finalize process cases through the legal systems.

9) ICLA is operating through implementing partners in Georgia and Colombia and this option is increasingly being considered in other country programmes.

10) By 2008, advocacy, consistent with the NRC Advocacy Policy, was a key feature of many ICLA programmes.

11) In Sri Lanka and DR Congo, ICLA has been implemented in conflict situations. The mid-term evaluation of the Sri Lanka program called for a review of the policy to adapt implementation to this context.

3.5 ICLA's legal and policy framework

3.5.1 International laws and standards

As noted in **Section 3.1**, the ICLA programme is rights-based: it aims to promote the rights of beneficiaries which are essential for returning, resettling or integrating locally.

The key international human rights documents which provide the framework of ICLA, and indeed all of NRC's core activities, are:

Conventions:

- International Covenant on Economic, Social and Cultural Rights (1966) (**ICESCR**), entered into force in 1976¹²
- International Covenant on Civil and Political Rights (1966) (**ICCPR**), entered into force in 1976;
- Convention and Protocols Related to the Status of Refugees (1951) (**Refugee Convention**);
- The Geneva Conventions (1949) and the Additional Protocols to those Conventions (1977);
- International Convention on the Elimination of All Forms of Racial Discrimination (1966) (**CERD**), entered in force 1969;
- Convention on the Elimination of All Forms of Discrimination against Women (1979) (**CEDAW**), entered into force in 1981;
- Convention on the Rights of the Child (1989), (**CRC**) entered into force on 2 September 1990; and
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), (**CAT**) entered into force in 1987.

Declarations:

- Universal Declaration of Human Rights, 1948 (**UDHR**)

Principles:

- The Guiding Principles on Internal Displacement (1998) (**Guiding Principles**);
- Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005) (**Pinheiro Principles**)

The key international documents and Sections thereof specifically relevant to the ICLA issues and methods (including the rights to legal aid and information) are noted in those sections below.

¹²) and the Optional Protocol approved in 2008 and not yet in force pending state ratification.

3.5.2 Regional laws and standards

For all **European** treaties and related legal instruments see the Council of Europe website: www.coe.int/t/dghl/default_en.asp and the website of the European Court of Human Rights: www.echr.coe.int/echr

For **African** regional instruments, see the recent Great Lakes Pact, which includes four programmes of action and ten protocols. Three of those protocols are of immediate relevance for ICLA programmes (see Appendix 3):

Protocol on the Protection and Assistance to Internally Displaced Persons

Protocol on the Property Rights of Returning Persons

Protocol on the Prevention and Suppression of Sexual Violence against Women and Children

For other **African** regional instruments, see the website of the African Union for all official documents, including decisions, declarations, conventions and protocols:

<http://www.africa-union.org/root/au/index/index.htm>



In December 2007, ASEAN the peak body for regional cooperation in East Asia, executed the ASEAN Charter which includes as one of the organisation's purposes:

"to strengthen democracy, enhance good governance and the rule of law and to promote and protect human rights and fundamental freedoms with due regard to the rights and responsibilities of Member States".¹³

The ASEAN Charter also calls for the establishment of a human rights body (Article 14). Although many commentators have expressed scepticism as to the potential of this body, it is an interesting development.

In **South Asia**, where NRC has worked extensively, the regional body, the South Asian Association for Regional Cooperation (SAARC),¹⁴ has doggedly avoided any discussion on human rights issues. However, several of the South Asian states have relatively progressive constitutions and national legislation and there is a wealth of vibrant and skilled regional civil society organisations.¹⁵

3.5.3 National legal frameworks: formal and informal systems

Although gross violations of human rights may be taking place within any NRC programme country, the laws of those countries relevant to the protection and promotion of human rights may be progressive. In such contexts, drawing on rights enshrined in national constitutions, national legislation, judicial precedents and customary or religious rules to support the promotion of benefici-

13) Charter of the Association of South East Asian Nations.

14) More information can be found at: <http://www.saarc-sec.org/>

15) See, for example, the Asian Centre for Human Rights and the South Asian Forum for Human Rights <http://www.safhr.org>

aries' rights will be far more effective than referring to nebulous international standards as governments may be reluctant to entertain international actors and laws but cannot argue with their own constitution and laws. In such cases, research on the relevant laws and education of local stakeholders will be essential.

In many countries where ICLA operates, however, formal systems of law (constitutions, jurisprudence, etc) are weak or non-existent. In such contexts, advocacy initiatives to encourage or support law reform may be included as key components of ICLA programming (see Section 6.4 for more information). Alternatively (or additionally) informal systems of justice, including all functional customary and religious systems, may be targeted in ICLA programming.

In most countries in which ICLA operates, informal justice systems are extensively used. In Afghanistan, for example, more than 80% of disputes are resolved through informal justice systems. In South Sudan, this figure has been reported as over 90%. Supporting such systems (such as through capacity building initiatives) or interacting with informal systems (by using these systems for the resolution of disputes involving ICLA beneficiaries) is extremely important. These systems are culturally appropriate, perceived to be more legitimate than formal systems, generally more familiar and accessible (in terms of cost, geography, language, etc), are usually quicker and cheaper, focus on social harmony and therefore may mitigate conflict.¹⁶

On the other hand, interaction with informal systems requires care by ICLA as, frequently, decisions may be made or rules followed that are inconsistent with human rights standards, particularly with respect to the rights of women, children and minority groups. Procedural fairness and enforcement capabilities may be entirely lacking and if decisions are not recognised within the national legal framework, resolutions achieved within informal systems may not be sustainable. Informal justice systems, particularly in a conflict or post-conflict context, may also be susceptible to domination by the local elite and a lack of accountability.

In Afghanistan, NRC comprehensively researched and analysed the use of jirgas, shuras and private mediation for the resolution of local disputes. NRC concluded that ICLA's support of and interaction with informal justice systems was highly appropriate, except with respect to criminal cases and in spite of the informal systems' sometimes problematic treatment of women's rights.

For more information see the NRC Position Paper on the Relationship between Formal and Informal Justice Systems in Afghanistan (see Appendix 5)

16) UNDP, (E. Wojkowska) 'Doing Justice: How informal justice systems can contribute', 2006, pp 16 - 19

➔ Further resources:

Protecting Internally displaced persons: Manual for Law and Policymakers

UNDP, (E. Wojkowska) 'Doing Justice: How informal justice systems can contribute'¹⁷

3.5.4 Durable solutions



Durable solutions are at the core of NRC's mission statement:

The NRC shall in all ways seek to provide viable, durable solutions with regard to both its spokesman activities and its emergency relief efforts.

Durable solutions are different for refugees and IDPs. Some agencies refer to three durable solutions for refugees: voluntary repatriation, local integration or resettlement in a third country. This concept derives from the 1951 Refugee Convention and implies a change in the legal status, i.e. a refugee is no longer a refugee. However, the change in legal status does not mean that refugees will not face obstacles to reintegrate in their country of origin or integrate in their country of asylum. Hence, NRC may continue to provide assistance to refugees who are no longer refugees because they have returned or integrated locally.

Unlike Article 1C of the 1951 Convention on the revocation of refugee status, the Guiding Principles do not contain any cessation clauses that would determine when their application ceases. Hence, there is no absolute consensus on durable solutions to internal displacement, partly because internal displacement is not a legal status that can be brought to an end. Yet, the possibilities are very similar to those of refugees, except that all take place within the borders of a country: return to the place of origin, local integration in the areas of refuge or settlement in another part of the country. Displaced persons are no longer IDPs in the sense of the Guiding Principles if they "have returned to their homes or places of habitual residence" (Principle 29) but they continue to enjoy the rights of returnees as long as they need such protection (Principles 28-30). Once they are (re)integrated, have regained their property or received compensation and are no longer discriminated against because of their former displacement, the Guiding Principles cease to apply.¹⁸ Displacement ends when one of these solutions is found and all displacement related discrimination against IDPs stops.

17) See, in particular, Chapter 5 on 'how to engage with informal justice systems'

18) The Legal Dimension by Walter Kälin. This Article originally appeared in Forced Migration Review Issue #17 in 2003.

➔ Further resources:


UNHCR Framework for Durable Solutions for Refugees and Persons of Concern

When Displacement Ends: A Framework for Durable Solutions, Brookings Institution

Durable Solutions for IDPs in Protracted Situations: Three Case Studies, Brookings Institution

UNDG Guidance Note on Durable Solutions for Displaced Persons

3.5.5 NRC Policy on Protection

 Through its Protection Policy, NRC has adopted the International Committee of the Red Cross's definition of 'protection', that is:
*"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 (i.e. HR law, IHL, refugee law)."*¹⁹

In order to contribute to the protection and promotion of the rights of NRC's target groups, the Protection Policy requires NRC to:

- ensure a rights-based approach to all programme activities;
- encourage the responsibility of the State to protect persons within its borders;
- ensure the accountability of NRC to stakeholders;
- apply the concepts of universality and non-discrimination, while recognizing the need for targeting relative and gender-specific concerns; and
- apply the principle of 'Do No Harm' (see also **Section 3.5.6**).

Protection is required to be mainstreamed in all NRC programmes in line with the specific protection focus of each core activity and the political and humanitarian situation in the country of operation. For ICLA, the 'specific protection focus' is contained in the objectives in the ICLA Policy (see **Section 3.4**), with the additional goal of providing legal assistance to improve access to justice for the displaced. To that effect, Protection and Advocacy Adviser positions have been established in many countries to support managers in mainstreaming protection in the core activities.

19) NRC Protection Policy, 2008

In accordance with the Policy, ICLA must ensure that all of its programme staff and particularly managers are trained on mainstreaming protection, including advocacy, into humanitarian assistance activities and the NRC Code of Conduct.

➔ Further resources:

ALNAP, 'Protection: an ALNAP Guide for Humanitarian Emergencies'

Handbook for the Protection of Internally Displaced Persons of Global Protection Cluster Working Group

Refugee Protection in International Law

<http://www.unhcr.org/4a1ba1aa6.html>

3.5.6 Do No Harm and ICLA

The 'Do No Harm' principle is an essential standard by which NRC conducts its activities. This principle is addressed in the Protection Policy but warrants specific mention here.

'Do No Harm' means that the negative impacts of humanitarian aid should be eliminated and positive contributions improved.



This principle is given effect in the NRC Protection Policy as follows:
"NRC will carefully consider whether any assistance programme or advocacy activity is likely to place target groups, individuals or others at risk through security threats, deprivation of basic services, and/or by compromising the dignity and integrity of people affected by displacement."

'Do No Harm' is highly relevant to ICLA programmes, which regularly deal with highly sensitive issues, often of a political nature. If not properly managed, ICLA has the potential to do great harm. Just a few examples are as follows:

- exposing the political opinions or affiliations of beneficiaries;
- exposing victims to risks of violence and other forms of retribution by encouraging them to speak out;
- increasing tensions and violence in host communities through the insensitive provision of services; and
- providing flawed information to beneficiaries who act to their detriment on the basis of that information.

It is essential that project managers measure all programme objectives and activities against the 'Do No Harm' principle. Staff training on this concept is required at all levels of the ICLA programme.

3.5.7 Gender Policy

The NRC Gender Policy published in October 2007 and available on the NRC intranet, sets out the following objectives on gender:

- to ensure that all NRC programmes benefit men, women, girls and boys according to their different needs;
- to involve male and female beneficiaries in planning their assistance and protection;
- to take steps to ensure that a gender perspective is integrated in all NRC's actions, including advocacy, reporting and policy documents;
- to promote equal opportunities for men and women at all levels within NRC; and
- to prevent and respond to sexual exploitation and abuse in the framework of NRC operations.

Methods of integrating a gender perspective into the ICLA programme are discussed in detail in the Sections on Project Formulation and Implementation below.

Again, it is essential that all ICLA staff receives training on gender and NRC's approach to gender.

➔ Further resources:

Inter-Agency Standing Committee (IASC), 'Women, Girls, Boys and Men – Different Needs Equal Opportunities, Gender Handbook in Humanitarian Action'

UNHCR Handbook for the protection of women and girls

3.6 Coordination with other core activities

The ultimate goal of all NRC activities is to achieve durable solutions for displaced persons. Evidently, working together as one organisation, rather than separate, distinct programmes, NRC can be more effective. Programmatic and advocacy synergies between projects are to be identified and set in the country strategy, Balanced Score Card and applicable core activity strategies. Primary responsibility for ensuring an integrated approach by all core activities lies with country- and programme directors. Core activity advisers in Head Office and managers on the ground shall deliver the technical direction required to ensure consistency amongst the different services delivered.

The manner in which ICLA coordinates with other core activities depends on the context, the type of ICLA programme and the form and content of those core activities. At a minimum, however, coordination should include:

- sharing knowledge, experiences and lessons learned
- leveraging each other's contacts and relationships
- ensuring assistance provided is complementary
- sharing resources such as office facilities.

In addition, ICLA Project Managers should consider the following:

- providing services to the same beneficiaries to avoid duplication of beneficiary identification and information collection efforts;
- using staff from other core activities as resource persons for ICLA information and capacity building activities (and providing the same to those core activities);
- including ICLA beneficiaries and other stakeholders in workshops or capacity building activities (internal or external) being run by other core activities (and vice versa); and
- as ICLA will usually commence subsequent to the establishment of other core activities, recruiting or 'borrowing' staff from other programmes to facilitate transfer of knowledge to ICLA and expedite programme start-up.



Example - Cooperation amongst core activities:

For shelter assistance to be sustainable, beneficiaries should have rights to the land on which the shelter stands and there should be a reasonable assumption that those rights will be permanently respected and fulfilled by the state and other actors, to prevent forced evictions. Rights to land should be part of the selection criteria for return programs and ICLA teams can assist in verifying the validity of the rights. Country programmes, such as Afghanistan or Uganda, have started a more systematic approach to shelter and ICLA.

➔ For more information, see Appendix 4:

NRC Shelter Handbook

NRC Camp Management Handbook

NRC Education Handbook

PART 4 – ICLA ISSUES IN DEPTH

As noted in the **Section 3.1**, civil documentation; housing, land and property; and GBV are the key ICLA issues specified the ICLA policy.

When implementing an ICLA programme around any or all of these issues, it is essential that both national and international staff have acquired the necessary expertise. As stated in the International Bar Association's rules:

"It is improper for lawyers to accept a case unless they can handle it promptly and with due competence".²⁰

If the staff recruited does not have a thorough understanding of the applicable laws, which may well be the case, they need to acquire it. It is imperative for each ICLA programme to reach a point at which it can state with confidence that it is a national expert in the issues which it handles. This can be achieved through a number of means, including:

- hiring one or two staff members with the requisite knowledge who can train other team members. As detailed further in **Section 8.2**, additional international assistance may be required for this purpose; or
- selecting team members to conduct sustained research on the relevant topics; to draft comprehensive reports and share with team members (see parallel recommendations throughout this document, including in **Sections 3.5.3** and **5.1.1**).

Similar recommendations have also been made in ICLA evaluations:

- *"NRC should develop [in each country context] specific policies and positions regarding all major challenges impacting target groups: e.g., land and property issues; durable solutions and villagisation in order to ensure consistent interventions between and within programmes. These policies and positions should be widely known and understood by all staff and fully incorporated into the daily work." ICLA Burundi Evaluation, March 2008, page 7*
- *"ICLA should revive research and writing of thematic reports based on lessons learned and recommendations from field offices ... E.g. lessons from the documentation process to inform ongoing Law Reform of the Registration Act; and lessons from Maintenance cases to inform ongoing revision of the Muslim Marriage and Divorce Act." ICLA Sri Lanka Evaluation, March 2008, page 6*

20) International Bar Association Code of Ethics, at p 2

4.1 Civil documentation

Assisting beneficiaries with civil documentation-related concerns has been a feature of the ICLA programme since its inception. This issue has been given a variety of names across the ICLA programme, including documents of 'legal identity' and 'personal documents'. The standardized terminology that will be used in the Core Activity Database is '**civil documentation**'.

4.1.1. Normative framework

Civil documentation related rights which most donors and national counterparts will be familiar with a child's right to be registered immediately after birth and to have a name (ICCPR Article 24(2) and CRC Article 7(1)). Another is the right to registration of marriages to ensure respect for the equal rights of both parties under CEDAW, Article 19(2). Under the Refugee Convention and the Fourth Geneva Convention, states are also specifically obliged to ensure that vulnerable groups such as refugees and interned civilians in occupied territories are provided with basic documentation.²¹

Other major human rights instruments clearly contain a right to identity and recognition. Depending on the country context, civil documentation may be the only means of exercising these rights. The UDHR, for example, provides:

- Everyone has the right to recognition everywhere as a person before the law (Article 6);
- Everyone has the right to a nationality (Article 15(1));
- Everyone has the right to take part in the government of his country, directly or through freely chosen representatives (Article 21(1)) – this right is usually only exercisable by those who have national identity papers; and
- Everyone has the right of equal access to public service in his country (Article 21(2)) – again, this right can often only be exercised by persons with identity papers.

²¹ Refugee Convention, Articles 25(2) – (3): The authorities "shall deliver or cause to be delivered under their supervision to refugees such documents or certifications as would normally be delivered to aliens by or through their national authorities," which are to be accepted as proof of identity "in the absence of proof to the contrary". Fourth Geneva Convention, Article 97(6): when civilians are interned by occupying powers, "family or identity documents in the possession of internees may not be taken away without a receipt being given... internees shall never be left without identity papers, and... if they do not possess any identity documents, the detaining authorities must issue them special documents which will serve as their identity papers for the duration of their internment."

➔ Further resources:

Brookings Institution, 'Protecting Internally Displaced Persons: A Manual for Law and Policy Makers', (specifically see chapter 11)

Humanitarian Reform, Global Protection Cluster Working Group, 'Handbook for the Protection of Internally Displaced Persons', specifically see part V, Chapter 2

4.1.2 Importance of civil documents

Depending on the country context, civil documents may be important for the following reasons:

To facilitate access to both governmental and private entitlements and/or facilities, including:

- health services;
- educational facilities;
- opening a bank account or purchasing a mobile phone;
- obtaining credit from banks or Government schemes;
- voting;
- obtaining legal employment;
- accessing rights derived from employment, i.e. pension rights, subsidies, etc
- access to post-conflict/disaster compensation and rehabilitation schemes;
- land allocation schemes or property restitution mechanisms (i.e. as proof of former residence);
- to secure freedom of movement.

As an effective protection tool, for example:²²

- to counter underage military service or conscription;
- to counter forced marriage of under-aged girls;
- to prevent the treatment of children as adults in the judicial system;
- to secure a person's right to a nationality;
- to facilitate anti-trafficking efforts, including repatriation and family reunion;
- to help enforce labour laws on minimum ages for employment.

4.1.3 Reasons not to provide civil documentation assistance

ICLA staff often refers to civil documentation as the 'bread and butter' of ICLA programmes. Documentation work is relatively conceptually simple; it can easily be explained to beneficiaries and local stakeholders; the impact of providing civil documents may be immediate and visible; and the tangible and quantifiable nature of the work can provide immediate job satisfaction for staff. Many donors also appreciate civil documentation services for most of these reasons.

None of the above, however, justify ICLA's engagement in civil documentation where there are existing national systems to handle these tasks. The introduction of a third party between civilians and their institutions bears the potential risk of inhibiting the capacity and accountability of those institutions. Providing assistance to beneficiaries where that work could be done by the beneficiary themselves is a waste of resources and can create dependency. Equally, in certain contexts the general population does not understand nor enjoy civil documentation and providing such assistance only to NRC's target groups may be counterproductive. In such contexts, it may be useful to link ICLA services to ongoing programmes. These are usually implemented by larger development agencies aiming at longer term structural impact, for example poverty reduction or women empowerment.²³

22) These examples are listed on the UNICEF website: http://www.unicef.org/protection/index_birth-registration.html

23) For a more detailed explanation of the impact of legal identity in empowerment and poverty reduction please refer to the first chapter in volume II of the report of the Commission on Legal Empowerment.

The Asian Development Bank has also cautioned against the provision of civil documents to beneficiaries. Although the following quote relates specifically to birth certificates, it could equally apply to other forms of civil documentation:

“Too often programmes aimed at increasing civil registrations are based on an inadequate problem analysis that fails to differentiate between intermediate and ultimate outcomes. While recognizing the right to be registered at birth as a human right, the ultimate goal is not simply to increase registration rates but to improve access to services, benefits, protections, and opportunities. Programme interventions often seem based on the assumption that the distribution of birth certificates will lead to human rights protections and better distribution of resources and opportunities. The research shows ... this assumption is misplaced. The goods associated with legal identity do not automatically flow from the possession of a birth certificate.”²⁴

4.1.4 Reasons ICLA should provide civil documentation assistance

In light of the above, before commencing civil documentation services, NRC should consider the following:

Could involvement in civil documentation by NRC be counter-productive to the NRC goal of seeking responsibility by State actors?

NRC's Protection Policy states: “Any protection efforts undertaken by the organisation ... will be conducted in a manner which foremost seeks to ensure that States meet their legal obligations to protect their citizens”.

In some countries, ICLA has assisted with the completion of application forms, the delivery of applications to the relevant authorities, subsidizing fees, collection of the certificates and their return to the client. This approach should not be used unless absolutely necessary and always in conjunction with some kind of capacity building or advocacy activity seeking to encourage the State to fulfil its obligations.

Particularly in disaster situations, where the Government technically has the capacity and will to process documents itself and only needs to re-establish those services in the wake of the disaster, creating any parallel mechanisms for the procurement of documentation may create a habit of dependency on the part of the citizens and weaken the relevant Government institutions. In such cases, NRC may provide temporary assistance to the Government to cope with the massive increase in document requests created by unforeseen events. In some instances, assistance may take the form of temporary in-kind support such as providing materials to issue the documentation at the immediate aftermath of the emergency.

How direct is the link between civil documents and the benefits which they (theoretically) entitle beneficiaries to access?

In many contexts, regulations as to the documents required to access particular benefits will be applied irregularly. If beneficiaries in Congo, for

24) Asian Development Bank, *Legal Identity for Inclusive Development*, pp 73 – 74.

example, have always obtained educational scholarships without a birth certificate, even though this is a legal requirement, is there anything to be gained by assisting IDPs procure this document?

Consider also that providing information on civil documents may not be enough to help beneficiaries if:

- registration costs are prohibitive;
- procedures for accessing documents are cumbersome; and
- beneficiaries will suffer from discriminatory behaviours during the application procedures on the basis of gender, caste, ethnicity, etc.

Do the benefits of procuring documents outweigh the costs?

Even if beneficiaries have all their civil documents, will they be prevented from accessing the required services anyway, e.g.

- those services do not exist (consider, for example, remote areas of post-conflict Sub-Saharan Africa);
- they are discriminated against by the relevant service providers on the basis of gender, caste, ethnicity, literacy levels etc; or
- they are illiterate or do not have the know-how to access the relevant services?

➔ For more information, see, for example: the Asian Development Bank's legal identity project, including:

<http://www.adb.org/documents/speeches/2007/sp2007013.asp>.

The above comments do not suggest that civil documents are neither important nor worthy of ICLA intervention. However, it is necessary to fully consider the context rather than jumping in as an 'easy' ICLA issue to address and without developing necessary complimentary activities, including capacity building of local authorities and a strong advocacy strategy.

Assistance with civil documentation may be justified in situations where::

- the displaced persons face resistance from their own governments or neighbouring governments. For example, the applications for national identity cards by Sri Lankan Tamils in conflict areas were often delayed by more than 2 years or not processed at all. In other cases, vulnerable and illiterate people may never have had documents, procedures for obtaining them are very complicated and the authorities uninterested in assisting.
- there are legal obstacles to obtaining civil documentation. For instance, if an IDP wants to be registered as an IDP in order to access assistance but is rejected on the basis of a local by-law or due to the misinterpretation of the applicable legislation by the local bureaucracy.
- distances and travel costs prevent people from accessing civil documentation - registry systems in all countries require the beneficiaries to reach to the services, rather than the services reach out the beneficiaries. This constitutes a major obstacle for many vulnerable persons, particularly during an emergency²⁵ where security is also a consideration.

25) The external evaluation report of the first 12 months of the ICLA program in the wake of the earthquake in Pakistan provided an analysis of the cost and time involved for beneficiaries to obtain different documents by themselves. Some documents cost beneficiaries (including travel expenses) more money than the monthly subsistence allowance/livelihood cash grant. Beneficiaries, relying on subsistence allowance for survival, cannot be expected to spend that amount for a document.

While distance and travel expenses affect all people, evidently, the vulnerable are disproportionately affected.



Example: In Pakistan (earthquake), the cost to an individual beneficiary of obtaining domicile certification was estimated at 10-15 times the processing cost for NRC, the difference being 'unofficial costs' charged at each stage of the process and travel expenditure incurred by individuals.

- displaced persons are constrained by restrictions in movement due to security threats. For example, Serbs in Kosovo could not visit registry offices without a military escort.
- economies of scale, that is, where there is a short-term need for processing a large volume of documents, such as subsequent to natural disasters. For example, if documents are required for accessing compensation schemes but may have been lost or destroyed in the disaster, or perhaps never obtained; these needs will create extraordinary demands with which registry systems, that may already been weak and lacking capacity, are not designed to cope.
- ICLA has, in some contexts, handled documentation cases in very high volumes.²⁶ For example, the ICLA Pakistan earthquake programme handled 30,258 documentation cases and obtained 24,466 documents in 28 months. ICLA can do this by taking 50 or more document applications in each mobile visit, process the applications, and take them all together to the registry office. This process saves time and travel expenses of all the beneficiaries at the expense of a single trip for ICLA. It also reduces the workload of the registry offices. Instead of entertaining large crowds of beneficiaries, registry offices receive all the requests from a single source. This factor is immensely beneficial for the registry offices whose capacities are diminished by the disaster, or overwhelmed by a huge volume of requests.
- beneficiaries are not aware of the immediate importance of civil documentation - in disaster situations particularly, affected communities justifiably perceive food and shelter as their top priorities. Unless efforts are taken by an organisation such as NRC to inform communities about the importance of civil documents, those communities may not attempt to procure their documents until it is too late to participate in compensation schemes or claim citizenship. Often host communities and the general population are also unaware of the importance of civil documentation and should also be targeted by awareness raising activities.
- the cost of civil documents is prohibitive: stamp duty, documentation fees and corruption related charges discourages poor and vulnerable beneficiaries for applying for documents.²⁷ ICLA may pay for all or part of the fees (for vulnerable persons selected in accordance with ICLA's criteria

26) In 28 months ICLA Pakistan EQ program handled 30,258 documentation cases and obtained 24,466 documents.

27) Consider the 300 Rs (5\$) birth certificate fees in Manshera district of Pakistan. A day labourer family with 4 children would have to spend almost a week's wage to cover the costs of birth certificates for their children.

for selecting beneficiaries only (see **Section 7.3** for more information) - these costs must, of course, be budgeted (see also notes on budgeting in **Section 8.4**)

- corruption unduly enhances the cost of civil documents. ICLA can help counter the effects of corruption, for example, by publishing information and increasing the awareness of beneficiaries on the correct fees and steps for processing various documents and advocating for greater transparency by the relevant authorities.

4.1.5 Civil documentation in natural disasters

In all ICLA natural disaster programmes to date, civil documentation has constituted a major programme component. As noted above, sudden onset natural disasters may generate immediate demands for large volumes of civil documents.

In the ICLA Pakistan (earthquake) programme, more than 50% of work related to documentation. After the tsunami in Sri Lanka, documentation comprised approximately 80 to 85% of ICLA's caseload. In Sindh-Beluchistan (Pakistan floods) this figure was almost 100%.

The number of documentation requests received and resolved in all natural disaster programmes was significantly higher than in ICLA conflict programmes. This is a product of the countries in which these disasters were conducted, the high demand for documentation created by compensation schemes and importantly, the willingness of the relevant governments to issue the documents. For more information on ICLA in natural disasters, see **Section 7.8**.

There is scope for debate as to whether the civil documents to which ICLA facilitates access in the aftermath of natural disasters should be either directly or indirectly linked with the reconstruction and rehabilitation process. For example, ICLA's internal assessment of the Sindh-Beluchistan flood response showed that most of the national identity cards obtained by ICLA on behalf of IDPs were not used for claiming any flood-related entitlement from the government.

4.2 Housing, land and property (HLP)

Housing, land and property are complex concepts. Although they are clearly differentiated in the international normative framework, it is very common in the humanitarian protection terminology to use the blanket term "HLP" to refer to all of them. This can be misleading and it is important to distinguish among them.

4.2.1 Normative framework

Property rights

An individual's right to property is perhaps less extensively described in the key international documents than other rights which ICLA may address. This is largely a result of the ideological differences of the Western and Eastern bloc countries during the Cold War, the period during which both the ICCPR and ICESCR were drafted.²⁸

The UDHR, however, clearly states in Article 17(1) and (2) that: *"Everyone has the right to own property alone as well as in association with others"* and that *"No one shall be arbitrarily deprived of his property"*.

With respect to refugees, Article 13 of the Refugee Convention grants refugees "treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally in the same circumstances, as regards the acquisition of movable and immovable property and other rights pertaining thereto."

With respect to women, CEDAW Article 16 protects the equal rights of women with respect to ownership, enjoyment and disposition of property.

For IDPs, Principle 21 of the Guiding Principles states that no IDPs should be arbitrarily disposed of their property and possessions and calls for the protection of property and possessions against certain acts, such as pillage or destruction. Principle 21 also calls for protection against arbitrary or illegal appropriation, occupation or use of the property left behind. In the post-displacement phase, Principle 28 imposes an obligation on competent authorities to assist returned and/or resettled IDPs recover their property or provide/assist with compensation or just reparations.

Housing rights

The rights to housing, shelter and an adequate standard of living are also not free from controversy in the international doctrine. The origins of the controversies originally lie with the Cold War ideological differences and later have evolved to discussions around the scope of economic social and cultural rights, especially their justiciability. These debates have been partly eased with the authoritative interpretations of the ESCR Committee. Housing rights are enshrined in a number of human rights conventions:

- ICCPR, Article 17.1: "all persons should be protected from arbitrary or unlawful interference with their home";
- ICESCR, in particular Article 11, on the right to an adequate standard of living. General Comment #4 on the right to adequate housing, #7 on forced evictions, and #3 on the nature of the obligations of state parties. Of particular importance for ICLA is the possibility of fulfilling the rights by pursuing judicial or other effective remedies;

28) See generally, Uvin, P., *Human Rights and Development*, Kumarian Press, Bloomfield, USA, 2004, pp 9 – 13.

- Convention on the Elimination of All forms of Racial Discrimination, Article 5 on the right to housing;
- CEDAW, Article 14 paragraphs 2(g) and (h) on equal treatment for women regarding land and agrarian reform and the right to adequate living conditions, including housing;
- Protocol (1977) Additional to the Geneva Conventions (1949) regarding the protection of victims of non-international armed conflicts, including Articles 16 and 21 on the rights to adequate housing and inheritance respectively;
- CRC, Article 27 (3) on the right to adequate housing;
- Refugee Convention, Article 21 on the obligation of states to accord to refugees lawfully staying in their territory treatment as favourable as possible and, in any event, not less favourable than that accorded to aliens generally with regards to housing;
- Guiding Principles on IDPs sets out the rights to housing over three different phases: prior to, during and after displacement. For example, Principle 6 contains a prohibition on arbitrary displacement from a person's place of habitual residence. See also Principle 14 (right to choose place of residence), Principle 15 (rights relating to forcible return or resettlement), Principle 18 (right to an adequate standard of living for IDPs, including basic shelter and housing) and Principle 28 (voluntary return to habitual places of residence).

Land rights

The right to land is not explicitly recognised by the international human rights system. In general, land rights in displacement contexts are usually associated with infringement of property rights and to restitution or compensation. However, rights to land are deemed essential to the fulfilment of many other human rights such as the right to food, to peaceful enjoyment of possessions, to housing, to gender equality and many others. Further, access to land is essential not only for return but also for local integration and resettlement of ICLA's target group.

A discussion of the human rights dimension of land is beyond the scope of this Handbook. Yet, a few useful examples and resources to note are:

- ILO Convention Concerning Indigenous and Tribal Peoples on access to and use of land and the right to restitution or compensation for lost lands
- ICCPR, Article 27 on the right of minorities has also been interpreted as including rights to land in settings where land is an essential element of the culture

- CEDAW, Article 14 calls State parties to take appropriate measures for women to enjoy their right to equal treatment in land and agrarian reform, as well as in land resettlement schemes;
- Guiding Principles on IDPs, Principle 9 contains special protections for indigenous peoples, pastoralists etc, with a special dependency on their land.

Security of tenure

Security of tenure cuts across housing, land and property rights. It is the central regulatory means by which people can be protected against displacement (including forced evictions), harassment or other threats. As one of the core contents of the right to adequate housing, security of tenure – whether formal, informal, customary or in other forms – should be sufficiently strong to protect people against any form of arbitrary or unlawful displacement. Although security of tenure is most commonly associated with the ownership of property or land, it can include a wide variety of tenure arrangements where security of tenure rights are, in fact, recognised. These include, for instance, rental (public and private) accommodation, cooperative housing, long-term possession or occupation of land or property, de facto recognition of security of tenure (but without legal status), recognition of security of tenure (but without any form of tenure regularization); temporary occupancy permits; temporary non-transferable leases; long-term leases; and other forms of provisional tenure.²⁹

Principles on Housing and Property Restitution for Refugees and Displaced Persons: the “Pinheiro” Principles

The principles were endorsed by the UN Sub Commission on the Protection and Promotion of Human Rights in 2005. They are a consolidated text regarding to the legal, policy, procedural, institutional and technical implementation mechanisms for housing and property restitution. They do not have the rank of “hard” international law and they are not binding on states but many of their provisions are grounded in international law.

4.2.2 HLP issues in post-conflict contexts

A wide variety of problems relating to rights over housing, land and property are prevalent in both conflict and disaster contexts.

In situations of war or unrest, land and property issues may be both the cause and consequence of a conflict. The re-distribution of land from the upper to lower castes, for example, was a primary demand of the Maoist rebels in Nepal. In other contexts, where land is seized by conflicting parties for territorial gains, provided as a ‘reward’ for allies, used as a battlefield or where ethnic cleansing takes place, HLP issues will arise as a consequence of the conflict.³⁰ At any rate, housing land and property issues are essential for the well-being of displaced persons both during displacement and for them to reach a durable solution to their plight.

HLP issues may surface in the post-conflict/disaster period as returning populations seek to reclaim their land from illegal occupants, correct illegal

29) Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles

30) See Humanitarian Policy Group, ‘Uncharted Territory: Land, Conflict and Humanitarian Action, Meeting Report’, February 2007, para 8 for considerably more detail on this topic.

transfers and/or destruction of property: *“this transitional period can be the most dangerous as land grabbing occurs and creates permanent changes”*.³¹ Problems range from the restitution of land or access to land, compensation for both moveable and immovable property, land titling and reform, mixed together with both restitution and compensation. The nature and degrees of these problems will also vary as a programme area transitions through various phases of conflict (or disaster), early recovery and development.

While NRC is clearly not a development agency, the way certain countries decide to address land disputes, through land reform or land titling programmes instead of a restitution or compensation mechanism, can create specific problems and violations of rights of displaced population which should be of concern to NRC and therefore require action. Depending on the situation, NRC might have the opportunity to contribute to the design of a restitution process based on the information collected through its legal assistance services. In other contexts, the security situation, the absence of a legal framework, or, on the contrary, the existence of legal pluralism and lack of institutional capacity, may seriously limit NRC’s capacity to have more than a local impact which can also be a legitimate objective. Prior to engaging in HLP issues, NRC should determine the impact it can have on the situation and adjust its programme accordingly. Where formal institutions are absent at the local level this might require engaging with customary dispute resolution mechanisms.

While HLP issues are usually complex and politically sensitive, failure to address these issues can easily spark further conflict,³² which constitutes a pressing rationale for NRC to tackling HLP issues rather than leaving this issue to be addressed as a ‘development problem’.

4.2.3 HLP and gender

HLP is also a key gender issue. In most locations where NRC works, gender discrimination is a prevalent feature of both customary and statutory land rights systems. ICLA often operates in predominantly agrarian societies.³³ In such environments, access to land translates to access to food for women, their children and other dependants, access to an income and the resulting security which this provides, including potentially sufficient funds their children’s education. In this context, it is evident that the recognition of land rights may be the precursor to a whole range of other fundamental human rights, including the right to work, shelter and security of the person.³⁴ A strong gender focus should especially be incorporated into any legislative of other land reform initiatives in which ICLA is involved.³⁵

4.2.4 ICLA and HLP-related activities

The ICLA policy states that *“overcoming legal obstacles, particularly related to housing, land and property”* is a primary objective of the programme.

The most common situations in which ICLA may provide assistance to individuals or groups to overcome legal obstacles to accessing housing, land

31) Humanitarian Policy Group, ‘Uncharted Territory: Land, Conflict and Humanitarian Action, Meeting Report’, February 2007, para 1.

32) Ibid

33) See for example, Principle 9 of the Guiding Principles on Internal Displacement: “States are under a particular obligation to protect against the displacement of indigenous peoples, minorities, peasants, pastoralists, and other groups with a special dependency on and attachment to their lands.”

34) See, for example, Report of the Special Rapporteur (Miloon Kothari) on adequate housing as a component of the right to an adequate standard of living’, February 2007, United Nations General Assembly document reference A/HRC/4/18

35) See, for example, UNDP, ‘Gender, Land Rights and Democratic Governance, Discussion Paper 2’, May 2008.

and/or property rights are the following:

- Prevention of displacement
 - providing information and legal assistance to specific groups at risk of being displaced due to evictions, predatory practices, etc. For example, by assisting in demarcating and registering land plots, filing appeals against demolitions order, etc;
- Access to housing and land while in displacement
 - informing displaced about their rights and existing programmes, procedures and requirements to access land;
 - providing legal assistance to access tenure security and to prevent forced evictions and secondary displacement.
- Access to housing and land as a pre-condition to local integration
 - informing displaced about their rights and existing programmes, procedures and requirements to access land permanently;
 - providing legal assistance to ensure that tenure arrangements are in line with international standards and guarantee adequate housing conditions.
- Access to restitution and compensation or dispute resolution mechanisms in return contexts
 - providing information about the existing mechanisms and counselling on best avenues to access them;
 - providing legal representation to individuals or groups;
 - ensuring that the rights to restitution or compensation of those unable or unwilling to return are respected;
 - assisting those returnees who were already landless before displacement to access land distribution programmes.

As mentioned in the previous Section, in post conflict and disaster situations, HLP issues are multidimensional and often have economic, social, cultural and political implications that go beyond what can be solved through the various forms of legal assistance and information provided by ICLA. Sometimes, until structural problems have been solved it will not be possible for ICLA programmes to provide legal assistance to individuals to remove “legal obstacles”. In other instances, activities aiming to influence the outcome of structural processes (i.e. designing a mechanism for property restitution) may run parallel to specific assistance provided to individuals.

Due to its proximity to the beneficiaries and its in depth technical knowledge about HLP, ICLA might enjoy a privileged position to influence policy and law-making processes to ensure that the rights of its target group are respected. This will require a combination of some or all methods used by ICLA programmes: continued legal assistance to individuals and groups, information and dissemination, advocacy, capacity building and technical support to authorities and specialised agencies.



Examples of ICLA's HLP activities to date:

- ICLA has concrete experience, including in Sudan, Congo and Colombia, of providing information on the applicable domestic laws on housing, land and/or property rights. This activity is particularly relevant where the applicable laws provide equal ownership rights for women but local authorities and communities are either unaware of these laws or fail to apply them.
- Information and counselling services have been provided in Nepal with respect to land documentation (such as ownership certificates) and the registration of this documentation with the relevant government authorities. This is particularly relevant in more developed legal systems in which the registration of housing, land and/or property rights is fundamental to the enforcement of these rights.
- In Pakistan, extensive legal assistance was provided with respect to with respect to partition, demarcation and succession disputes. For details, see the example of the in-court representation services in Section 6.3.
- In Liberia, ICLA has facilitated negotiation of land disputes, including procuring land surveys (see Section 6.3.7 for a detailed description of this activity).
- The provision of legal assistance towards obtaining security of tenure over housing premises occupied by NRC's target groups during displacement. In Georgia, ICLA has been very proactive in assisting IDPa to obtain security of tenure – ownership or other forms of tenure – as a precondition to local integration. These efforts do not preclude the rights to restitution and or/compensation that IDPs might have to the properties in their places of origin.
- The use of customary and religious bodies – jirgas and shuras - to resolve property disputes in Afghanistan has proven to be an efficient way of providing assistance to returning refugees in the absence of statutory systems. ICLA Afghanistan was permitted to represent claimants before these bodies preserving their capacity to pursue the cases in court, if necessary. In these fora, instead of highlighting international standards which are unknown or considered as 'imported', ICLA lawyers used the provisions of the sharia law that were in line with international standards (see the ICLA position paper on the use of customary systems in Afghanistan in Appendix 5 for more details).
- In Uganda, ICLA has facilitated the codification of the principles of customary tenure in Acholi land.
- In DR Congo, ICLA has facilitated the creation of local commissions that will mediate in land disputes and can channel access to land by displaced persons or landless returnees.
- In Colombia, ICLA is identifying cases that may constitute land restitution precedents in the context of reparations processes.

Local land laws and practices are often complex. Providing assistance with respect to land issues may require the parallel application of competing laws (such as statutory and customary laws) or the reconciliation of these systems. Again, it is strongly recommended that provision is made in project proposals and budgets for in-depth research to be carried out to ensure that ICLA assistance is based on a solid understanding of the customs and applicable laws, how or whether these laws operate in practice and an in-depth understanding of the context in which NRC is generally operating.

Such research was conducted in Georgia on the eviction of IDPs (for more details see research and recommendations in Appendix 5) and in the urban area of Yei in South Sudan. The results of the later research are set out below.

4.2.5 An HLP case study: research and recommendations in South Sudan



In 2008, in the Yei area of South Sudan, ICLA conducted interviews with over 40 beneficiaries with land and property disputes, held community meetings and meetings with chiefs and headmen, made field trips with County Land Administration staff and held two meetings with the County Administration and local military leadership.

Other organisations working on land and property issues, specifically UN HABITAT, had already identified a number of institutional, legal and policy challenges to resolving land and property conflicts in the area. These challenges included the lack of legislative and administrative frameworks on land management and the lack of mechanisms to resolve disputes. However, these challenges corresponded to the development of competent and accountable state institutions which is an extensive and gradual process.

In NRC's view, more immediate steps needed to be taken to reverse escalating frustrations resulting from accumulated disputes. Specifically, it was found that critical obstacles to dispute resolution were not the contradictions between customary and statutory legal systems, inconsistent dispute resolution mechanisms or a lack of knowledge of the applicable human rights standards, but the absence of demarcated land and inadequate political resolve to intervene in disputes involving powerful persons. Specifically, NRC made the following findings:

Observation 1: Lack of demarcated areas for residential plots

The majority of disputes arose when returning refugees/IDPs discovered that their plots had been unlawfully occupied. Illegitimate occupants were reluctant to vacate these plots, not because they feared receiving no compensation for their house built, but because it was impossible to acquire and ensure secure ownership of an alternative plot. Further, as no areas had been demarcated for residential plots, evicted persons were obliged to identify, negotiate and purchase land directly from chiefs or individuals. This required resources, skills and connections out of reach for many returnees.

Accordingly, NRC recommended that the County quickly demarcate a new area of the town that was still empty and to register those required to vacate illegally occupied plots and to be allocated a new plot. This exercise was also intended signal to the population that the County was assuming its responsibilities. The County subsequently submitted a funding proposal for the demarcation of 3000 plots.

Observation 2: Fraud and lack of documentation of land transactions

NRC discovered that some chiefs had sold the same plot of land to several buyers, provoking confusion and violence and that fraudsters were presenting themselves as the owners of a plot, particularly to women purchasers, accepting payment for that land and then disappearing.

Although land owned by communities is rightfully allocated by communities themselves under the leadership of traditional chiefs, there was a clear need to monitor and support the chiefs and to insist that the chiefs ensured the documentation and registration of all transactions to prevent further disputes.

Accordingly, it was recommended that an information campaign be conducted to reduce the fraudulent sale of plots and for the County and chiefs to meet to clarify their respective roles in the allocation and sale of residential plots in urban areas. Local radio stations, leaflets and community centres were identified as effective vectors for disseminating messages on the correct ways of buying and selling land.

Observation 3: Lack of resolve in military to deal with disputes involving soldiers People in urban Yei were intimidated and harassed by soldiers on a daily basis, including with regard to the occupation of houses and land. As the majority of the soldiers were from the Dinka tribe (not originally resident in that region), dissatisfaction with the misbehaviour of soldiers was directed at the Dinka community in general. Accordingly, NRC recommended that plans to relocate the military barracks away from the town be expedited. To this end, NRC twice met jointly with the County and the military leadership. There appeared to be good scope for collaboration on this issue, as well as for receiving support from the military leadership when soldiers refuse to vacate illegally occupied land and property.

Further recommendations for agency support:

Agencies should support and strengthen authorities who show an ability and willingness to conceive of and carry out practical measures to alleviate frustration and tension among persons affected by disputes, such as:

- demarcating land for residential plots
- improving the transparency of State institutions by producing and posting maps in public places, indicating existing structures and settlements, existing plans for urban development (roads, schools, boreholes, clinics)
- improving the accountability of traditional chiefs, civil and military authorities by making public their name, function, and geographical and thematic areas of responsibility
- organising regular meetings between chiefs tasked with mediating in land disputes and allocating plots in their area of responsibility and the County land administration staff, to identify problems and exchange ideas and experiences, and regularly clarify possible misunderstandings of roles



Further resources:

The IDMC website: <http://www.internal-displacement.org/>

NRC Afghanistan, Guide to Property law in Afghanistan

GTZ Land Management, A Practical Guide to Dealing with Land Disputes

Centre on Housing Rights and Evictions (COHRE) <http://cohre.org/aboutus>

COHRE, A Place to Live: Women's Inheritance Rights in Africa

CAPRI, Land Rights for African Development

The United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (The Pinheiro Principles)

Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles


Global Land Tools Network <http://www.gltn.net/>

Norwegian NGO Coalition <http://www.landrightswatch.net>

Oslo Governance Centre: land governance web site

http://www.undp.org/oslocentre/overview/land_governance.html

4.3 Gender-based violence (GBV)

 “NRC is committed to preventing and responding to sexual exploitation and abuse in the framework of NRC operations”;

NRC Gender Policy

4.3.1 Normative framework

Gender-based violence is defined as violence that is directed against a person on the basis of their gender or sex, including acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty. It includes physical, sexual and psychological violence perpetrated or condoned within the family, the general community or by the State and its institutions. It may take different forms: sexual violence; physical violence; emotional and psychological violence; harmful traditional practices; and socio-economic violence directed against any person on the basis of their gender.³⁶

The international rights framework relevant to the freedom from gender-based violence is extensive. Particular support for this right may be drawn from the UDHR:

- “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex...” (Article 2)
- “Everyone has the right to life, liberty and security of person” (Article 3)
- “No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” (Article 5)
- “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration...” (Article 7)
- “Marriage shall be entered into only with the free and full consent of the intending spouses” (Article 16(2)).

Several of these rights are echoed in the ICCPR (see, for example, Articles 6(1), 7 and 23(3)).

In addition to CEDAW, other treaties specific to the rights of women include:

- Convention on the Political Rights of Women (1953) entered into force in 1954
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962), entered into force in 1964.

³⁶ UNDG Declaration on the Elimination of Violence Against Women, A/RES/48/104

International humanitarian law and international criminal law explicitly prohibit many acts of gender-based violence.

Principle 11 of the Guiding Principles refer to protection against acts of gender based violence under the overall right to dignity, and physical and moral integrity.

4.3.2 GBV in context

Addressing GBV issues is a relatively new addition to the ICLA programme. It was added on the basis that, in any ICLA programme area, there will be significant levels of gender-based violence which hinders the capacity of the survivors to access their rights and durable solutions. Displaced women and children are particularly vulnerable to gender-based forms of abuse. This is consistent with the UN Security Council Resolution 1325 which recognises that:

*“civilians, particularly women and children, account for the vast majority of those adversely affected by armed conflict, including as refugees and internally displaced persons, and increasingly are targeted by combatants and armed elements, and ... the consequent impact this has on durable peace and reconciliation”.*³⁷

In addition, conflict and natural disasters generally precipitate a breakdown in community, leadership, family and related interruptions to values and culture, all of which are well known to enhance levels of GBV.

GBV related issues arising from conflict may specifically include:

- increased levels of rape (which may lead to women becoming pregnant, and as a result being excluded from a community, or raped girls being sent away or forcibly married to the perpetrator);
- domestic violence (possibly a reflection of generally increased levels of violence in the community due to the stresses created by war or increased alcoholism – a common result of unemployment or a sudden influx of cash through compensation schemes);
- early and forced marriages;
- second/invalid marriages;
- illegitimacy;
- forced prostitution and trafficking (both internal and external) for sexual purposes; and
- a massive increase in the rate of single mothers.

³⁷ Preamble, UN Security Council Resolution 1325.

Living conditions facilitated by the humanitarian community in response to disasters and conflict can also aid increased rates of GBV:

*“From all [tsunami] affected countries, there are reports that incidences of rape, sexual harassment and domestic violence were on the increase and had contributed to physical injury, fear of unwanted pregnancy, sexually transmitted diseases and compromised mental health status (UNDP, 2005) ... In the camp environment, a lack of privacy caused by temporary and shanty accommodation left women more exposed than was customary (UNSETR, 2005). The lack of separate toilets for men and women, the absence of lights in the camp at night and public bathing facilities contribute to the risk and occurrence of rape. Fear associated with living in these conditions can compound the existing trauma and related mental health problems”.*³⁸

All of the above result in the increased vulnerability of women and children and increased discrimination (and hence further vulnerability) against the victims of GBV.

As such, one cannot talk about durable solutions for IDPs, refugees or returnees without looking at issues of GBV. Durable solutions involving housing land and property rights, for example, are of little use if a woman cannot live in her home because it is too violent. Assisting a woman to keep her house, her children through a protection order, or obtaining a divorce, for example, may all be fundamental to a woman’s future and that of her dependants.

Accordingly, even in situations where ICLA staff is not specifically addressing a GBV issue, they must be sensitive to and aware of these. GBV cases may not be immediately apparent. Without awareness (including training for staff to ask the right questions), GBV issues may not be brought to the attention of ICLA staff.

4.3.3 Staying alert to GBV issues

In most cultures, GBV and domestic violence are seen as community – or family matters and may not be made apparent to outsiders (including national ICLA staff). Accordingly, even in situations where ICLA staff is not seeking to address GBV issues, they must be alert to the potential of GBV in any context. Therefore:

- Wherever possible, husbands and wives and male and female members of a community (for example, women and older male children or nephews) should be interviewed separately, whether or not the topic of the interview is GBV;
- All involved staff must have appropriate client care skills, an understanding of the urgent psychological needs in some cases and, in

38) Pittaway, E., ‘Gendered dimensions of the 2004 tsunami and a potential social work response in post-disaster situation’, *International Social Work*, 50(3), 307-319 at p 309.

- others, the need for time for the woman to make her decision;
- Staff must not judge, must be patient, endeavour to build up trust, take into account extended family and children's considerations and must respect the beneficiaries' confidentiality at all times; and
- Staff must be able to refer clients to appropriate services, especially medical and psychosocial. For this purpose, it is important to build up a network of referral organisations.



Example: Northern Sri Lanka:

ICLA established a call-out service with a local NGO based at the welfare centres so that the NGO could immediately assist a woman who needed help. ICLA lawyers were prepared to draft and file documents immediately for protection orders, requiring templates to be ready in the office. If not, the window of opportunity could be lost and women might not have the courage to apply for a protection order again. If, however, a woman changed her mind, the lawyers had to understand that clients were not 'wasting their time' and that their service had still been of value.

In one case ICLA lawyers provided counselling to a very vulnerable woman experiencing severe domestic violence and sexual abuse of her daughter from her partner for most of a year with no tangible result though she was assisted to make decisions regarding her children. However, when a new crisis emerged, the woman had the strength to report her partner to the police and give crucial evidence required. In other cases, even where no action was taken, the women and children accompanying them to the lawyer knew that such acts were illegal, such behaviour unacceptable and thus empowered the women and children.

4.3.4 ICLA assistance to GBV survivors

Since ICLA has started focusing in GBV only recently, the scope of ICLA assistance to survivors is still being tested in the field and Head Office. However, ICLA can deliver the following types of assistance:

- Raise awareness among survivors, potential victims, communities and authorities about gender-based violence, its consequences, the applicable legal framework, assistance networks and facilities through information, legal education sessions, counselling and capacity building.
- Providing legal assistance to child protection agencies.
- As being a victim of GBV is a specific vulnerability, ensure that it is part of ICLA's beneficiary selection criteria, always bearing in mind that survivors of GBV may not want to disclose this information. The ICLA Global Database allows programmes to report statistics about clients affected by GBV.
- In many contexts, there may be little direct redress for GBV survivors. In this case, the best result may be to empower women in other ways, such as through enhancing their access to land, so that they may be

more independent and ultimately less vulnerable to abuse. Hence it is important to research and categorise what linkages exist between patterns of GBV in a given context and the assistance that ICLA provides in its other areas of expertise, namely HLP and civil documentation. For example, a mother may face difficulties in obtaining civil documentation for a baby born out of a rape. A GBV survivor might have been excluded from its community and may have stronger and specific needs to land in the location of displacement.

ICLA has represented GBV survivors in court in a number of occasions. The drafting of the ICLA policy suggests that this may be possible within the scope of ICLA's activities. However, an understanding exists in NRC by which ICLA would generally not represent cases in criminal issues, such as rape. This does not preclude the possibility that ICLA could pursue representing a victim of GBV in civil aspects of a claim, especially those related to rights over property, compensation or custody of children. Information on the rights to pursue a criminal claim, the process for doing so and supporting a victim to lodge a complaint with the relevant authorities could also be a modality of assistance to GBV victims. This may be essential for a victim of GBV to pursue durable solutions if such issues are not addressed.

If an ICLA programme decides that in order to remain relevant to the target group, it is necessary to intervene in the criminal aspects of a court process this needs to be first articulated in a strategy and discussed with the relevant management and technical support staff in country and at Head Office. If at all pursuing this option, staff should assess and be fully competent in the following:

- Assessing what is the applicable legal framework and the state's will and capacity to enforce decisions;
- Assessing existing facilities which can provide multi-sectoral assistance to the victims with a special focus on shelter, livelihoods, security and psychosocial assistance;
- Ensuring client confidentiality and understanding the potential consequences if confidentiality is not maintained;
- Ensuring that the judicial process and its consequences and risks are fully explained to and understood by the client;
- Ensuring that the client is facilitated to make free and informed decisions at every stage of the judicial process and not directed what to do by NRC staff;
- Requesting closed court proceedings where possible.;



Example 1 - GBV activities, Sri Lanka:

In northern Sri Lanka, convicted domestic violence offenders receive very low sentences (or even a warning only) and protection orders are not enforced outside town areas as there is no police presence. In such cases, awareness raising and advocacy to empower and educate women and to change attitudes of men towards women are valuable, parallel activities. Such activities can also be used to encourage a community response, which may be far more effective in combating GBV than formal systems and procedures.

A domestic violence act was brought into force the year ICLA started operations in Sri Lanka. The ICLA centres' lawyers were the first lawyers to obtain protection orders for their clients in the Districts they were operational. In some places this involved explaining the law and the corresponding duties of the court and of the police to these stakeholders. ICLA organised a GBV forum and involved other agencies to address GBV as a major issue. MSF subsequently managed to organise a separate, private ward at the hospital for girls for treatment and interview purposes. Within the forum, ICLA also conducted sessions on confidentiality and client care. ICLA lawyers also developed relationships with community workers and counsellors so that cross-referrals could be reliably made.

To compliment these activities, ICLA trained UNCHR and NRC's GBV staff on the importance of confidentiality and what this means in practice. UNHCR then conducted awareness raising activities with the police as field staff reported that the police was interviewing victims in public at the hospital and making bungling general inquiries at the IDP camp, revealing the victim's identity.

Example 2 – GBV activities, Afghanistan:

NRC lawyers initiated jirgas for domestic violence cases or attended jirgas that were already planned. An important feature of this process was to encourage community responsibility for monitoring the situation. ICLA also mediated cases between husbands and wives, as well with extended families. When a female lawyer had primary responsibility for representing a female beneficiary, she was supported by a male lawyer, if necessary. NRC found that its lawyers were generally well received due to their courteous and respectful approach and that ICLA sought compliance with the law rather than casting blame. The impact of this activity was assessed positively by the increase in demand for ICLA's services, with major achievements being increased awareness of all involved and for the victims to know that a service was available for their support.

Example 3 – GBV activities, Colombia

The use of gender-based violence as a weapon of war to induce forced displacement and other suffering is a crime under international law and has been examined by the jurisprudence of the International Tribunals for former Yugoslavia and Rwanda. Both, gender violence and forced displacement are considered war crimes and/or crimes against humanity in the Statute of the International Criminal court. In Colombia, ICLA is supporting victims and communities to litigate selected emblematic cases to solicit a formal, judicial response to the gender dimensions of the crime of forced displacement. The aim is to promote access to justice and integral reparations for the victims, which involves exposure of the truth and, eventually material reparations, such as compensation and restitution for lost property.

Example 4 – GBV activities, Liberia

NRC is implementing a 12 month pilot GBV project in three counties. To decrease the level of GBV against Liberian women and children, NRC - in partnership with the Government, the UN and other NGOs - will monitor legal cases through the justice system and encourage their proper resolution; build the capacity of key governmental actors to prevent and combat GBV; raise the awareness of communities on GBV in the three counties; and conduct a country wide media campaign.

ICLA programmes have also been involved in the mediation of family cases of GBV. Note, however, that where GBV is prohibited by law, mediation may not be legal or an appropriate response. Any staff engaging in such mediations needs to be appropriately qualified.



Further resources:

IASC, Guidelines for Gender-based Violence Interventions in Humanitarian Settings

IASC, Women, Girls, Boys and Men – Different Needs Equal Opportunities, Gender Handbook in Humanitarian Action


UNHCR, Sexual and Gender-based Violence against refugees, returnees and internally displaced persons: guidelines for prevention and response

UNHCR Handbook for the protection of women and girls

PART 5 – ICLA ASSESSMENTS AND PROGRAMME FORMULATION

5.1 Assessments

5.1.1 Why is a good ICLA assessment essential?

 *“To execute programme activities including individual legal representation ... it is important to perform an in-depth analysis of the exact legal context including a careful assessment of the chances of success in particular assignments (and what is meant by “success”), including the nature of the legal and political environment, consider realistically the troubled nature of post-conflict societies and set out clear assumptions about the conditions required to do the job, including the time available and necessary competencies.”*

West Nile, Uganda, donor report 2008

The quality of NRC’s programmes starts with good assessments. Although this appears to be obvious, in the past, comprehensive and accurate ICLA assessments have not always been undertaken and some ICLA programmes have commenced on the basis of assumptions drawn from other programmes areas. The success of ICLA programmes are dependent on good assessments as ICLA must interact extensively with national laws and local, regional and central Government systems, a comprehensive understanding of which is required. A successful ICLA programme also requires an in-depth understanding of political, social and cultural realities in the given country.

Thorough desk studies are an essential requirement prior to conducting assessment missions on the ground. In some cases, if funding is available, it may also be desirable to precede a full-scale ICLA programme with an sufficient research period so that meaningful assessments can be undertaken by a small team of international and national staff, without the simultaneous pressure of meeting programme targets. NRC is often approached by research institutions that could be useful partners in carrying out applied research.

5.1.2 NRC assessment resources

In short, the basic purpose of an assessment is to determine whether the establishment of an NRC programme will help achieve NRC’s mandate in a given area. NRC resources available to guide the assessment process include the NRC Policy Paper and the NRC Start-Up Handbook.

The NRC Policy Paper (available on the NRC intranet) sets out 6 criteria which must be met prior to the initiation of new programmes:

- the refugees or IDPs exhibit a need for international protection and intervention that has not been met;
- NRC will have genuine access to the refugees or IDPs, and will be in a position to professionally implement justifiable programme activities;

- the safety of the relief workers has been adequately secured;
- there is a need for the type of assistance offered by the NRC (one or more of the core activities);
- the assistance provided by NRC will not merely assuage immediate needs, but will also help to introduce constructive, lasting solutions for refugees and/or IDPs; and
- a sufficient amount and quality of financial, human and other necessary resources are, or will be, available in the field and at headquarters.

The NRC Policy Paper stresses the importance of a regional approach, which includes cross-border assistance.

The NRC Start-Up Handbook (available on the NRC intranet) provides further, detailed guidance on the decision-making process within NRC for the establishment of new programmes and sets out a list of topics to be considered by in-country assessment teams. These topics include background analysis, description of the IDP/refugee population, GBV considerations and risk factors.

5.1.3 Specific considerations for ICLA assessments

In addition to the general NRC start-up criteria, in order to counter the broad scope of ICLA, it is essential to conduct a specific start-up assessment for ICLA programmes to obtain information specific to ICLA issues and make concrete recommendations as to the issues to be addressed, the methods to be used and the ICLA activities to be implemented. Without this level of detail, the programme will be difficult to 'sell' to donors who may be unfamiliar with the ICLA concept, what ICLA does or what the impact of the proposed programme will be. Additionally, the task of the concrete conceptualization of the programme should not be left to incoming programme staff, who may be operating alone and are most likely under substantial pressure simultaneously to managing the operational set up of the programme.

To facilitate a detailed ICLA assessment, a range of sample, ICLA-specific queries are listed below. As always, the information required to be collected will vary significantly depending on the country context. To guide assessments, the chapter of this Handbook on ICLA Implementation should also be reviewed (see **Section 7** below).

5.1.4 Contextual analysis

Thematic areas	Sample queries
National legal framework	<p>Is the programme going to be implemented in a context of legal pluralism i.e. several legal systems overlapping? Are customary or religious laws valid? Are they applied by communities or state bodies?</p> <p>Which international human rights instruments has the State ratified?</p> <p>Are there any national laws regulating the duties of the State towards refugees, IDPs and returnees?</p> <p>Are there any national/regional policies, ceasefire or peace agreements that mention these duties? If so, to what extent are these being implemented?</p> <p>Which national authorities are responsible for issues relating to displaced persons? Are they aware of their duties towards the displaced under any applicable laws, agreements etc?</p> <p>Does NRC have a pre-existing relationship with these authorities?</p> <p>To what extent are functioning law-making bodies in place? Would legislative changes further ICLA's objectives? Could ICLA feasibly advocate for such changes?</p> <p>Are any transitional justice initiatives taking place? If so, are these relevant to durable solutions?</p> <p>In what languages are the laws drafted? Are key laws available in the NRC working language?</p>
Systems of justice	<p>To what extent are systems of justice functioning?</p> <p>How legitimate are they amongst the general and target populations? Are decisions enforceable?</p> <p>How do the various justice systems interact or cooperate with each other? Are there overlaps? Incompatibility?</p> <p>If customary or religious courts exist, is their jurisdiction recognized by statutory law? What is the scope of their jurisdiction?</p> <p>Are any other alternative forms of dispute resolution being practised, such as through mediation boards? If so, what is their role and level of functionality?</p> <p>Which judicial/legal system provides the best results for particularly vulnerable persons (e.g. women, children, ethnic, religious or linguistic minorities or displacement status) – including access, fairness of decisions, cost and time?</p> <p>Is there a functioning Human Rights Commission, Ombudsperson's office or other independent bodies?</p> <p>Are any legal aid or related programmes functioning in the proposed programme area? If so, which services do they provide and to whom? How effective/efficient are they?</p>

5.1.5 Defining the target group

(a) Primary target groups

In accordance with the NRC's mandate and the ICLA Policy, the primary target groups of the ICLA programme are refugees, IDPs and/or returnees. Within these groups, the programme will pay particular attention to vulnerable individuals or groups, such as female heads of household, survivors of gender-based violence, children, elderly, minorities and indigenous peoples.

(b) Secondary target groups

ICLA assistance can also extend to secondary target groups to prevent perceptions of discrimination or bias which may result in hostile attitudes towards the displaced and constitute barriers to integration, resettlement and return. These groups may include:

- **The general community** (particularly host communities) - may benefit directly from ICLA information activities on a variety of ICLA issues, such as international human rights standards, local laws on domestic violence, property rights and how to access civil documentation, etc. In this manner, ICLA has a social and institutional impact beyond the displaced by promoting a culture of rights and advancing reconciliation.



Example 1: Both IDPs and many of their hosts, who may also be highly vulnerable, need information on how to access important civil documents. This information is disseminated through public means - particularly community meetings - accessible to both IDP and non-IDP groups. In this manner, a larger number of people benefit ICLA information activities and NRC avoids creating any suspicions or tensions within the communities.

ICLA Nepal



Example 2: Radio broadcasts are scripted to allow host communities and refugees an equal understanding of the refugee paradigm, its processes and mechanisms. On some occasions, the project also renders its services to mediate conflicts between refugee and host individuals to achieve an amicable outcome.

ICLA, West Nile, Uganda

As a general rule, information will be the only ICLA service provided directly to the non-displaced. An exception to this rule is noted in Example 2 above. One-on-one counselling and legal assistance may also be provided to non-IDPs. However, the numbers of persons to whom such services are rendered should be kept to a minimum. Particularly, where other legal aid service providers are available, ICLA should refer these persons accordingly.

**Examples:**

In Nepal, in two of the five programme areas it was decided to provide assistance to up to 25% of the non displaced/returnee population in order to avoid tensions in returnee communities and on the basis of the extreme vulnerability of those communities.

Likewise in Liberia, outside of Monrovia, approximately 20% of clients are non-displaced/returnees. Assistance is provided to them on the basis that all vulnerable persons were affected by conflict.

- **Local leaders** (for example, refugee community leaders, chiefs, religious leaders, political activists, local NGO and CBO representatives) - may receive training on the applicable local laws, international human rights standards, correct administrative procedures, etc, with the objective of improving their ability to resolve disputes and uphold rights within their communities.
- **Government:** local, regional and central level government official may also receive training on the applicable local laws, international human rights standards, correct administrative procedures, with the objective of enhancing their ability to perform their functions.
- **UN, INGOS, local NGOs:** may also receive training on those same issues listed above.

(c) Children as ICLA beneficiaries

Children's issues are often addressed under the leadership of organisations like UNICEF and Save the Children. In the tsunami and Pakistan earthquake, legal guardianship became an issue essential to children's protection but this was not obvious for many organisations addressing the needs of children that had no legal expertise on the ground. Without the appointment of a legal guardian, children were unable to access rehabilitation schemes and any funds to which they were entitled. As such, children with no guardianship missed out on both short and long-term assistance. Depending on the country context, the appointment of legal guardian may also give rise to other entitlements for orphans, such as support by local government service providers.

Another serious consequence of a legal guardian not being appointed is the possibility of child abuse. In Sri Lanka there were widespread allegations that the informal custodians of orphans neglected to send them to school. In some cases, orphans were used for domestic help. Orphaned children without legal guardians were more exposed in Sri Lanka to the risks of trafficking and recruitment by armed combatants.

The information on beneficiary selection criteria in **Section 7.1** below should also be considered.

➔ Further resources:

Watchlist on Children in Armed Conflict, Checklist on IDP Children

<http://www.watchlist.org/>

5.1.6 Relevance of ICLA to the target groups

ICLA Issues	Sample queries
Information on durable solutions: return, integration, resettlement, reintegration	<ul style="list-style-type: none"> • What is the target group's main source(s) of information on areas of return and possible resettlement? Do these sources convey objective information? Is the information up-to-date and reliable? • Are members of the target population regularly travelling to and from their place of origin? • Is NRC in a position to provide more accurate and reliable information on the population's area of origin? If so, how? (Consider cross-border programming or programming across the axes of displacement in IDP situations; alternative information sources, e.g. local or international partners). • After collecting return/resettlement information, what information distribution methods could be used to provide this to beneficiaries? What impact will this have? • What gender issues need to be considered with respect to women's rights to return/resettlement information and ICLA's information distribution methods? • What is the socio-economic status of IDPs? Is there high level of illiteracy? Are there language issues to take into considerations? In long term displacement situations parents might speak their own language while their children might have assimilated the language of the community of asylum. <p>For more details, see the Section on durable solutions.</p>
Obstacles to durable solutions: information (generally)	<ul style="list-style-type: none"> • To what extent is the target population aware of its human rights and duties? • What is the level of understanding at grassroots level of major legal and political developments (e.g. peace agreements)? • What other information needs does the target population have? • Which communications media are available locally (community notice boards, community meetings, local newspapers, FM radio, established local NGO/CBO networks) and in which languages? • What are the gender dimensions to the target group's information needs? How can ICLA promote women's participation in the proposed information activities and women's rights through these activities? • Are there any ethnic, religious, cultural or social discrimination partners that may represent obstacles to durable solutions? • What advocacy initiatives can be undertaken to improve access to information by NRC's target group? E.g. relationship building with relevant authorities, training to authorities to provide information themselves etc.

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Obstacles to durable solutions: civil documentation	<ul style="list-style-type: none"> • Are civil documents required by the displaced persons to return or to resolve problems related to their displacement? What specific documents and problems are these? • Do host populations also have needs related to absence of documentation? If so, what and why? • Is access to any specific documents linked to acquiring refugee or IDP status (in the later case as long as there is national registration on the matter)? • Without NGO assistance, are beneficiaries able to obtain these documents? If not, why not? • Which laws regulate the issue of these documents? Are these laws (or summaries) available in the NRC operating language? If not, what information is available on the rules for the issue of civil documents? • Does the law require beneficiaries to apply for documents in their areas of origin? • Which authorities are responsible for issuing the various documents? Are these authorities functioning throughout the programme area? If not, where are they functioning? • What will be the immediate and long-term impact on beneficiaries from the receipt of civil documents? • If NRC assists displaced persons obtain civil documents will they be able to access the required benefits/services or will they be excluded anyway on the basis of, for example, caste, gender or current place of residence? • Will NRC need a regional presence to facilitate document processing (ie. cross-border or across the axes of displacement)? • Is the lack of documentation a legal issue or is it a political issue? If political, what else is required to ensure the issue of documentation can take place? Can ICLA tackle any of these challenges? • What are the key needs for capacity building with respect to civil documentation? Which authorities are amenable to assistance/support from NRC? • What are the gender dimensions to the documentation issue? How could NRC promote women's participation in and women's rights through a documentation activity? • How sustainable is the proposed documentation activity? What happens when ICLA leaves? <p>For more information on the civil documentation issue and programming considerations, see Section 4.1.</p>
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<p>Obstacles to durable solutions: housing, land and property (HLP)</p>	<ul style="list-style-type: none"> • What are the different categories of land and property ownership? • What are the applicable laws? In which languages are these laws available? • How strong are customary tenure systems? • Is the land administration, public administration working? To what extent? • What systems of records (if any) have been kept in the past? Are these still available locally or centrally? How do the record-keeping systems work (in law and in practice)? If destroyed, can they be reconstructed/resurrected? • What are the HLP legal issues: e.g. claims for rent or possession of premises, eviction of unlawful residents, disputes regarding the partition and demarcation of property, etc? • How are land disputes currently being addressed? How effective is this approach? If not effective, can current dispute resolution systems be strengthened and if so, how? • Which other forums/mechanisms could be established to address these issues? • Could interim policies be developed and implemented quickly to help address emergency land access issues? • Is facilitated mediation by NRC a possibility? How sustainable would this approach be? (For consideration of this issue, Section 6.3.5). What are the possible options for handover to another organisation at the end of the ICLA programme? • Are housing, land and property disputes legal or political? If political, what else is required to ensure dispute resolution is durable, e.g. greater transparency in demarcation of land, development planning, accountability of traditional chiefs, civil and military authorities etc? • What are the rights of women to property ownership at the national/ regional levels? What is the level of knowledge and implementation of these rights? • Are there any other gender dimensions to land and property issues? How can women's rights be promoted through any HLP activities? • Is the land and property in question in the same location as the displaced population or in their area of origin? In the latter case, how could NRC assist with dispute resolution? Would this be practical and cost/resource effective? • Which advocacy initiatives can be undertaken to encourage the resolution of HLP disputes? • Is the target group vulnerable to forced evictions at the place of displacement? Are there any legal avenues to provide assistance to strengthen security of tenure? • Are there any land or housing allocation schemes? Does the target group have access to them? <p>For more information on the HLP issue and programming considerations generally, see Section 4.2.</p>
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Obstacles to durable solutions: gender-based violence	<ul style="list-style-type: none"> Which activities have already been undertaking/are taking place on GBV (Is there a medical response? Which facilities/care are available? Psychosocial care?) Police (is there a women and children's desk)? What are the laws for rape, domestic violence, incest etc, including the sentences? Are there criminal or civil remedies? Which courts are involved and what are the other actors? What are the local attitudes to GBV as well as to sex, relationships, privacy? What is the current response to GBV cases in the programme area? GBV What advocacy initiatives can be undertaken to improve access to information by NRC's target group? E.g. relationship building with relevant authorities, training to authorities of provide information themselves etc.? <p>For more information on GBV and programming considerations, see Section 4.3.</p>
Other obstacles to durable solutions	<ul style="list-style-type: none"> What other legal concerns have been identified by beneficiaries and other stakeholders? <p>Note: Beneficiaries and local stakeholders may not be able to identify legal issues. A beneficiary may state, for example, that she has no legal concerns but that insufficient food is her biggest problem. She may not know, however, that she has a legal right to use her husband's farm land, access to which would resolve her basic sustenance problem. (See Section 5.2.2 for more information on this point.)</p> <ul style="list-style-type: none"> What other issues have been identified by NRC? For example: <ul style="list-style-type: none"> Compensation claims (e.g. for persons killed or property destroyed) Children's legal issues: foster care, guardianship (for their general well-being and access to return/resettlement/rehabilitation facilities) Criminal issues, e.g. trafficking of displaced persons, harassment, illegal taxation, assault, unlawful detention and other legal violations to which vulnerable, displaced persons may be disproportionately subjected Impunity for human rights violations Claims for payment of benefits from the Government or private parties under labour laws or contracts Inheritance disputes Family matters including divorce, dowry, spouse and child maintenance and child custody Discrimination in employment, education etc. Which of the above issues are affecting the most vulnerable persons? What can ICLA do to address these issues (including advocacy initiatives)?

5.1.7 Feasibility of implementing ICLA

Most questions of implementation feasibility (including access to beneficiaries, security, funding and logistics) are common to all NRC Core Activities. These issues are addressed in the ICLA Start Up Handbook (available on the NRC intranet).

Some issues particular to ICLA are set out below.

Issue	Sample queries
Availability of suitably qualified national staff	<p>The qualifications and experience of national staff has a significant impact on ICLA programmes, which may require a higher level of analytical and conceptual skills amongst non-managerial staff than other NRC core activities</p> <p>In Liberia, for example, the programme originally proposed the provision of legal services extensively outside the capital. This concept was found to be impossible to implement as the few qualified lawyers in Liberia were not prepared to work outside the capital.</p> <p>Accordingly, ICLA assessments should investigate and be realistic as to the availability of local lawyers in the capital and regional centres, the willingness of centrally located lawyers to work in regional areas and the appropriateness of this approach.</p>
Situations of armed conflict	<ul style="list-style-type: none"> • Which is the primary authority for law and order – civilian or military? Can ICLA establish a working relationship with this authority? Or is there a rule of law vacuum? • Are traditional systems still functioning? If so, to what degree? • Have statutory courts been suspended? • Have any parallel systems been established with which ICLA could reasonably cooperate? • Are displaced persons primarily living in camps? What are the GBV implications?
Post-conflict settings	<ul style="list-style-type: none"> • Is the situation actually 'post' conflict or is the conflict ongoing? Which group is really 'in charge' in the proposed programme areas? Is there a rule of law vacuum? • Which authorities/institutions have primary responsibility for judicial systems? What is their level of functionality, funding and capacity? Can ICLA establish a working relationship with these authorities? • Were parallel structures developed during the conflict, e.g. regional police forces or an alternate judicial system? If so, are these still functioning, being dismantled or integrated? • Are any transitional justice initiatives taking place with which ICLA would need to interact? • Have developments toward peace given rise to new conflicts or tensions, e.g. within refugee communities or host populations? • Are any major legal reforms taking place or due to take place, e.g. a new constitution or land reform? • What is the estimated political will to favour durable solutions for the target group?

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Disaster situation considerations	<ul style="list-style-type: none"> • How quickly can programmes be established? If not in the first weeks following the disaster, consider carefully whether an emergency ICLA programme is appropriate. • Is the donor response likely to be along the lines of other major disasters (such as the Pakistan earthquake)? If so, which rehabilitation/reconstruction schemes can be predicted? What documentation needs will arise from these schemes? • Is the response to the disaster consistent with principles of impartiality and neutrality, without discrimination? • Will guardianship for orphaned children be required? What level of knowledge do beneficiaries have of their documentation/legal needs? • Have cash payments been made to male heads of household? Are displaced persons primarily living in camps? Is the military or other armed groups active in the camps? What are the protection/GBV implications? • Were there any pre-existing land/property disputes? How might the disaster exacerbate these? • What is the potential for new HLP issues? Land/property grabs during displacement? Destruction of landmarks for demarcation of property during the disaster? • Has any land disappeared (e.g. permanently submerged) as a result of the disaster? Will compensation be made available? • Any forced displacements after the disaster on the basis that land is no longer habitable or high risk? Has compensation been offered as a result? • How are the gender dimensions of the disaster being addressed?
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5.1.8 Sustainability of impact

ICLA programmes may be designed for a particular period in a conflict or peace process. For example, ICLA may be involved in facilitating the distribution of civil documents in areas which authorities cannot access. However, once access is possible, there will be no need for the continuity of ICLA's activities. In contrast, in other contexts, there may be a need for continued intervention well into a development phase which may exceed NRC's mandate. In this case, careful consideration of the sustainability of ICLA's work is required.

Issues	Considerations
Other organisations and partners	<ul style="list-style-type: none"> • Which other organisations may be available to take over ICLA activities? • Are they robust or just 'one-man organisations'? • Are they independent from the governing/power structures? Geographically concentrated? • Do any NGOs have a broad national and/or regional network? What is their role: are the human rights actors active? Visible? Vulnerable? Politicised? • What is their reputation among the general population? The refugee/IDP population? In the international community? • If civil society in the area is weak, what are the opportunities to contribute to building civic organisations? • Could future nationalisation of the ICLA programme be feasible?
Funding	<ul style="list-style-type: none"> • Is ICLA likely to attract funds from emergency budgets? If the situation turns into a post-conflict scenario, will these funds still be available? • Are donors that have previously funded ICLA programmes active in the area?

5.2 Programme formulation

5.2.1 Stakeholder participation

The first step in the conceptualisation of an ICLA programme is a comprehensive assessment (see **Section 5.1**). It is likely, however, that more detailed assessments will be required upon the arrival in-country of the first ICLA staff. This is an ideal opportunity to solicit greater participation from beneficiaries and other local stakeholders in the design of the programme. Assessment teams may not have had the time or resources to do this effectively. In undertaking participatory consultations, project managers need to consider how they will access and communicate with the target group. Unless a reliable local partner is available to assist, the retention of local staff, even if only on a short-term basis, could be useful for this purpose.

NRC's position on the participation of target groups is clearly stated in the Protection Policy:

"NRC will champion a participatory approach to protection, in recognition that people affected by displacement are best able to protect themselves, and thus must be at the very centre of decision-making concerning their own protection and well-being. NRC will actively consult target groups to gather accurate information about the protection risks they face, their capacities and the solutions they propose, when designing programmes for their benefit."

Participation can be solicited in numerous ways, such as through community meetings, focus groups and one-on-one discussions. All participatory activities should ensure that a variety of voices from the target group are heard, that is, not just community leaders but also the most vulnerable within a community, especially women. See **Section 7.6** on outreach activities for more information.

Useful, practical tips for the conduct of participatory assessments can be found in the Handbook for the Protection of Internally Displaced Persons³⁹ such as warning participants of any potential risks or inconveniences (such as time away from family or job, or reminders of traumatic experiences) and informing participants clearly as to the objectives and process of the assessment (including its limitations, so as not to raise expectations).

➔ Further resources:

UNHCR tool for participatory assessments in operations

<http://www.unhcr.org/publ/PUBL/450e963f2.html>

ALNAP publication, Participation by Crisis-Affected Populations in Humanitarian Action: A Handbook for Practitioners

Listening to the Voices of the Displaced: Lessons Learned, Brookings Institution

5.2.2 Issue identification – a key challenge for ICLA

This brings us to one of the greatest challenges for ICLA: to develop practical and implementable solutions to identified issues to meet beneficiaries' needs in contexts where beneficiaries are unfamiliar with their rights, a rights-based approach or the possibility of demanding their rights through legal means. This difficulty differentiates ICLA from other NRC core activities. In the case of distribution, for example, if the primary need is expressed to be food, food is generally provided. Using an ICLA approach, however, if the primary need is expressed to be food, the provision of information regarding women's rights to access to family-owned land may be provided. The only means of countering this difficulty is, after identifying the most common and pressing ICLA issues for the target group (including the concerns of the most vulnerable within this group), to undertake systematic empirical research on potential solutions to these issues within the scope of ICLA's implementation methodologies. By the end of this process, ICLA teams should be able to develop a mind map or matrix along the lines of that below, which summarises the issues identified, the implementation methods that may be used to address them and specific activities.

³⁹ Global Protection Cluster Working Group, in particular, see Part III, Chapter 1.

Issues identified	1. GBV	2. Civil documentation	2. HLP (women's property rights)	4. Other key issues - Illegal taxation
ICLA Methods				
Information	Various info dissemination methods including community meetings; posters; radio	As per GBV, focussed on non-registered IDPs in camps	As per GBV	Posters only
Counselling	Yes	Yes	Mobile clinics	Yes
Legal Assistance	Not possible due to existing laws	Further research on the appropriate courts, processes and likelihood of success for such claims is pending	Support applications to chiefs' and County courts	No
Capacity Building	May be required (technical support) for drafting new laws and training for implementation and enforcement	Increase local bodies' awareness of applicable laws	Yes	
Advocacy	Urgent need for law reform	Local and national levels; increase awareness and enforcement	Yes	Based on info received from CM team, develop joint advocacy initiatives, leveraging CM's contacts

From the information collected and in conjunction with a consideration of ICLA's target group, project managers will be able to make more informed decisions about the scope of the programme and its 'manageability'. In other words, are the proposed programme objectives and activities proposed realistic in light of the available resources (including funds and staff) and the country context (security, logistic hurdles, etc)? On this point, the following comments from the evaluation of the Uganda IDP programme in Lira are highly relevant:

"ICLA tried to address the largest and most difficult problems facing IDPs – the lack of rule of law, the lack of an administrative system in camps, the quality of governance, the discrimination against women in local culture ... It could never have hoped to show major, visible change on these issues within the time frame of the activities ... ICLA needs to be much more explicit in its project documents about the scale of the problems it is addressing and much more realistic about what behaviour change it wants to achieve. It then needs to make sure that these project documents are used as a management tool and not just for soliciting funds!"⁴⁰

At the preliminary planning stage, ICLA project managers should also be aware of the need to:

- situate the programme design within the overall country strategy;
- develop linkages and leverage commonalities with other core activities; and
- be aware of their role to maintain the relevance of the programme in changing political, security and legal contexts and be prepared to change the programme design, activities, style of implementation, etc accordingly. Early in the preliminary planning stage, project managers should already identify areas where flexibility in the programme design may be required.

To guide the programme design process, the chapter of this Handbook on ICLA Implementation and the examples of ICLA activities contained therein should also be reviewed (see **Section 7** below).

5.2.3 Developing a Logistical framework (logframe)

After producing a map of the target groups' key needs, developing possible ICLA solutions for addressing those needs and refining the target group, a logical framework or 'logframe' will be drafted.

The logframe is a tool which is intended to assist managers and stakeholders conceptualise a programme and show linkages between various programme components.⁴¹ Logframes also serve as a very useful summary of a programme and can be particularly helpful for explaining the programme to others.

Logframe formats vary from donor to donor. However, these will usually include the following categories:

- General objectives
- Specific objectives
- Outputs and Outcomes
- Verifiable indicators
- Sources of verification
- Assumptions and risks

40) NRC, ICLA evaluation, Lira, Uganda, January 2007

41) There is a large volume of literature on the use of logframes and the 'Logical Framework Approach', on both the advantages and limitations of these tools and how they are and can be used in practice. These can easily be located on the internet. On good example is (Swedish) SIDA's report, 'The Use and Abuse of the Logical Framework Approach' (2005).

Samples of each of these for ICLA programmes are listed below. Similar information is available in the Project Application Toolkit and Generic Resource Text for ICLA on the NRC intranet. (See also Appendix 4.)

Sample General Objectives

- To enhance the protection of IDPs in [programme area] and their capacity to seek durable solutions to displacement through the provision of information, counselling, legal and assistance
- to increase awareness among IDPs /refugees of their land rights, assist IDPs in removing obstacles to durable solution and contribute to an improved access to justice system.
- To enhance IDPs/refugees' knowledge of their rights and support them to demand their rights through information, counselling and legal assistance
- To support the protection of refugees/IDPs in [programme area] and their capacity to seek durable solutions to displacement
- To promote the obligations of the State to IDPs at the local and national levels
- To assist earthquake victims in [programme area] address legal issues related to their housing, land and property rights
- To assist refugees in [programme area] by removing legal and administrative obstacles to durable solutions related to their return

Note that the word 'ensure' should be avoided in drafting objectives as NRC cannot 'ensure' anything that is not 100% within its control. Words such as 'promote', 'contribute' and 'encourage' are recommended alternatives.

Sample Specific Objectives

Specific objectives are not required for all logframe formats. However, if they are, below are some samples ICLA staff may wish to use or adapt.

- To counsel earthquake affectees on obtaining civil documents
- To create awareness of earthquake affectees' land and property rights and entitlements under earthquake compensation schemes
- To promote the use of Ombudsman for redressing maladministration issues
- To encourage the use of knowledge on [insert issue] generated through the programme by relevant government and non-governmental entities
- To enable targeted IDPs and leaders to take positive actions to prevent land disputes
- To strengthen formal and customary legal systems at the grass roots level to better address disputes relating to returnees
- To assist IDP in the dispute resolution process through legal counselling and direct legal assistance to improve IDPs access to land
- To represent IDPs in property restitution processes to enhance their access justice and to their property rights

Sample Outcomes and Outputs

Results may be both qualitative and quantitative in nature. For example:

- 1500 earthquake affectees provided one-on-one counselling on how to obtain their civil documents
- 2000 IDPs have increased awareness of their rights to integrate, return or resettle and information on how to access and enforce those rights
- 1000 beneficiaries provided with information on their land and property rights and entitlements through ICLA community meetings
- Beneficiaries have increased access to civil documents, without individual counselling or interventions by NRC
- Comprehensive research conducted on the laws of [insert topic]. Research findings documented and published by ICLA
- More accurate and comprehensive information collected and shared with the humanitarian community and Government on the conditions and locations of IDPs, their common legal and protection issues and their means of redress
- Increased awareness and respect of IDP rights and the obligations of the Government to IDPs at the local and national levels

Sample ICLA Verifiable Indicators

Indicators are tools for tracking change or impact from a previously assessed baseline. A good indicator must be specific and measurable, or verifiable. As ICLA programme outcomes outputs are often 'soft', both quantitative and qualitative indicators are required.



"... qualitative statements about achieved changes or outcomes [and] ... quantitative indicators developed in the context of the desired changes or outcomes [are] ... particularly important for advocacy or human rights focused programmes in which one is often seeking to affect changes to policies and behaviours. Without such a framework, it becomes exceedingly difficult to appraise sustainability and results."

ICLA Burundi Evaluation, March 2008

Quantitative indicators:

All quantitative data relating to service provision should be disaggregated by gender. The new global Core Activity Database has become the main tool for capturing standard ICLA statistics. The Core Activity Database is posted on NRC's intranet and can be accessed on-line by managers and advisers to report statistics and conduct data analysis. Some of the examples provided below are captured in the Core Activity Database while others can be used to fulfil the needs of specific projects.

Service and beneficiary-related examples:

- Number of ICLA services provided;
- Number of participants at community outreach meetings/workshops;
- Number of legal cases opened and closed;
- Number of clients successful in redressing their own issues in accordance with NRC advice
- Number of beneficiaries successful in obtaining documents after intervention by NRC
- Number of land and property disputes in rural and urban areas are documented and analysed
- Percentage of essential services in the area documented
- Number of research reports and advocacy papers written.

Communications-related examples:

- Number of media units (TV programmes, radio spots, leaflets, etc) released during the reporting period
- Number of clients approaching NRC as a result of NRC media units
- Volume of free coverage of ICLA messages appearing in the local media

Qualitative indicators:

Qualitative indicators are used for measuring changes that cannot be counted but need to be described. They are particularly important in ICLA programmes where beneficiary numbers may be low but significant time and effort take to achieve a result is required (for example, in court cases) or the impact of ICLA's efforts is extremely high (for example, preventing a girl from being trafficked). Qualitative indicators are essential for determining the impact of ICLA on beneficiaries. Examples of qualitative indicators are:

- Steps taken by the government to implement the Guiding Principles on IDPs
- Steps taken by local partners to mainstream gender-concerns into their refugee programmes
- Steps taken by beneficiaries to assist themselves on the basis of NRC information and advice
- Changes in legislation affecting the target group
- Reasoning in judicial decisions consistent with refugee/IDP rights
- Ad hoc measures taken by relevant authorities to provide services to and facilitate the protection of refugees
- Improved timeliness in the response from local authorities to IDP requests
- Improved responses from police to female victims of GBV
- Increase in requests for training on ICLA issues from local stakeholders
- IDPs demonstrate greater trust in local authorities' ability to resolve local disputes
- Beneficiaries' capacity built in [subject area] and positive change of behaviour seen due to ICLA services.
- Level of cooperation with other [specified] protection actors

Sample ICLA Sources of Verification

- Statistics from the ICLA [or another core activity] database
- NRC client registration [or in-take] forms
- Field reports
- Monitoring & evaluation reports
- Meeting minutes
- File notes of informal and formal interventions
- Follow up interviews with former clients
- Random beneficiary surveys
- Workshop reports
- Government policy documents
- Amended or new legislation
- Court decisions

Sample Risks and Assumptions

- Insufficient funds (particularly where donors express a wish to co-fund programmes only)
- Access to areas in which the target group is residing
- Authorisation to operate from national and local authorities remains in place
- Adequate security in the programme area (both for NRC staff and target beneficiaries)
- Willingness of national and local authorities to support and be supported by NRC activities
- UN agencies and other organisations provide adequate protection & assistance to refugees and returnees
- Risk of refoulement of refugees

5.2.5. Strategic Planning

There are two main strategic planning tools in use for country programmes in NRC:

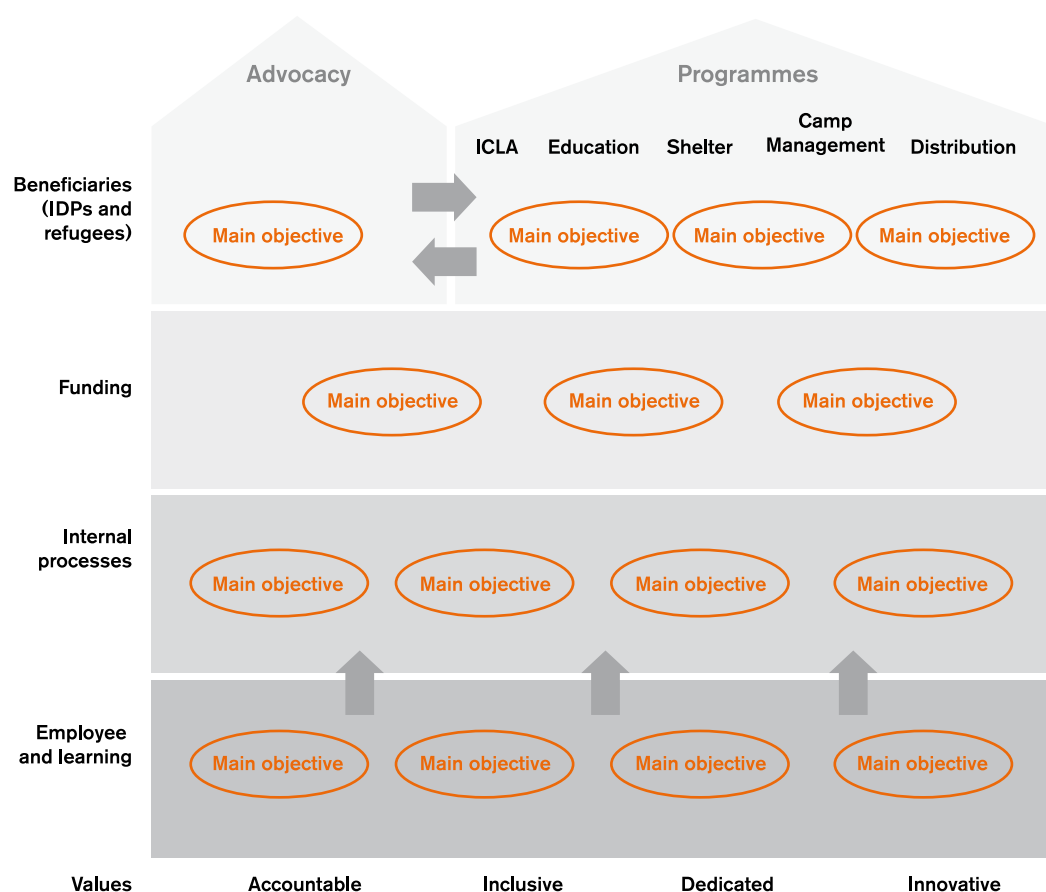
- the Country Strategies;
- the Plan of Action (objectives, indicators and initiatives)

Monitoring and reporting of country programme strategy implementation are done quarterly through the Balanced Scorecard and Quarterly Report. The Balance Score Card is used as a common framework for developing strategies and plans of action.

Each of the 'ovals' represents a specific strategic objective, each of which is further developed and clarified into a set of objective statements. The balanced scorecard is a tool that translates the organisation's mission and strategy into a comprehensive set of performance measures, which provide a framework for strategic management, based on ongoing monitoring and adjustment, through key performance indicators, targets and initiatives.

NRC Country - Strategy Map 20xx-20xx

Protection and durable solutions to people who have been forced to flee



ICLA strategic approach is usually reflected in these planning tools but some ICLA programmes may choose to develop specific ICLA strategies. The rationale for developing such strategies could respond to one or more of the following issues:

- Programmes are composed of a myriad of different project documents with different outputs and outcomes that require one higher level of analyses to ensure programmematic coordination and coherence;
- Donors are requiring that a strategy document is developed;
- Managers want to ensure that exit is planned well in advance;
- Due to the complexity of the legal issues at stake, a specific legal strategy is required;
- There is a need to re-examine the hierarchy of goals and objectives in light of the context analysis, the focus of the programme (e.g. information and legal assistance for property repossession) and the resources available.

A common concern is that the process of develop a programme strategy is overlapping with that used for developing project proposals for donors. In fact, each project proposal includes strategic elements: contextual analysis

and problem statement, log frames, stakeholder analysis and participation, etc. Managers should ensure that processes are not overlapping and that strategies are not developed only to fulfil formalities, but rather to ensure that the programmes are better positioned to achieve their goals. Hence, it is essential to define what is the aim of developing a specific ICLA strategy to avoid overlapping with existing processes and tools.

In developing an ICLA programme strategy, you typically move from a project level to a programme level covering more than one ICLA project or focusing in one specific theme crosscutting several projects, for example on Gender Based Violence or Housing, Land and Property.

Whatever the level, the standard steps in a strategic planning process are similar and to a large extent coincide with those proposed in this chapter for carrying out programme formulation:

1. Define what is the objective of the programme;
2. Conduct a contextual analysis (stakeholders, situation, etc) and an internal analysis (structures, deployment, resources, etc);
3. Develop a problem statement;
4. Develop and prioritize strategic initiatives to address the problem;
5. Develop a plan of action including indicators, responsibilities, etc;
6. Ensure monitoring and reporting on the implementation of the strategy.

➔ Further resources:

NRC Strategic Management Toolkit

NRC Strategic Objectives 2007-2009

NRC Strategy Map 2007-2009

Project Application Toolkit and Generic Resource Text


EC Project Cycle Guidelines

NORAD, The Logical Framework Approach (LFA): Handbook for Objectives-Oriented Planning

UNDP Oslo Governance Centre, Democratic Governance Assessments
http://www.undp.org/oslocentre/flagship/democratic_governance_assessments.html

PART 6 – ICLA METHODS

6.1 Information

 “The case studies show that people (when sufficiently armed with correct information about their rights, remedies and where they can go to seek help in a non-alienating environment and with support) have been able to generate change using the standards within the human rights frameworks to argue for improved conditions and treatment ... ensuring human rights compliance does not have to be litigation led and that resolutions can be negotiated by people without resort to the courts, using the language and culture of human rights.” ⁴²

6.1.1 The right to information

The provision of information by ICLA is founded on the right to information which was first widely acknowledged in 1946 when the UN General Assembly adopted Resolution 59(I), stating:

“freedom of information is a fundamental human right and is the touchstone of all the freedoms to which the United Nations is consecrated”.

Subsequently, reference to this right was included in Article 19(2) of the ICCPR which states that:

“Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds ...”.

The ability to access information has since be recognised as essential for the development of democratic societies on the basis that access to information is required for participation in decision-making, to promote transparency and hence accountability and lower levels of corruption, for the empowerment of otherwise disenfranchised groups, to establish the trust of citizens in their government and thus, to work towards the strengthening of that system. For example, in 1995, the UN Special Rapporteur on Freedom of Opinion and Expression, elaborated on this right:

“Freedom will be bereft of all effectiveness if the people have no access to information. Access to information is basic to the democratic way of life.” ⁴³

➔ Further resources:

UNDP, Right to information - Practical Guidance Note

42) L. Curran, ‘Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People’, La Trobe University, Australia, 2007.

43) Report of the Special Rapporteur, Mr Abid Husain, pursuant to Commission on Human Rights resolution 1993/45.

6.1.2 Information and ICLA

ICLA's information activities aim to provide access to accurate, reliable and timely information to individuals and communities to make sound decisions regarding durable solutions to their displacement and to raise their awareness of their rights.

The basic difference between information and counselling activities is that information is generic and not tailored to solve specific problems or needs of an individual or group. The information provided should not imply an advice on what is the best solution (viable, sustainable, etc) to a specific problem.

There are **two categories** within the ICLA information method:

- the provision of accurate but generic information with respect to durable solutions (return, local integration or resettlement) and obstacles to durable solutions (that is, the core 'ICLA issues') and;
- rights awareness and sensitisation.

These categories are elaborated below.

6.1.3 Providing information on durable solutions

Consistent with the categories established in the Core Activity Database, the provision of information on issues directly related to durable solutions - return, resettlement or reintegration - may include:

- the general situation (the political situation, safety and security, freedom of movement, amnesties, mechanisms for reintegration, etc);
- procedures for returning, integrating locally or settling elsewhere (including the documents needed, the legal or administrative procedures, reintegration packages available, available transport, etc);
- the conditions on return, local integration or settlement elsewhere (access to housing land and property, livelihoods, public services, assistance from national and international agencies, etc);
- information about services provided in the place of displacement, resettlement or return, by NRC and other humanitarian actors.

For the reasons set out in **Section 3.1**, ICLA does not differentiate between 'legal' and 'non-legal' issues. Therefore, information provided on issues of a typically legal character (e.g. property rights, the time it may take to solve a particular kind of case, etc) that is not specific to an individual's case is categorised as an 'information' as opposed to 'legal assistance' service.

6.1.4 Rights awareness and sensitisation

Depending on the context, this component of ICLA's information or method may entail the provision of information to beneficiaries on the following:

- international human rights laws and standards;
- rights contained in domestic statutory law (e.g. constitution); or
- rights arising from customary laws and practices.

Awareness and sensitization is different from training. Training implies a transfer of skills while awareness and sensitization only implies that beneficiaries become aware about the existence of rights and their scope.



Example 1: Provision of return information to Sudanese refugees in Uganda (West Nile)

The West Nile program provides Sudanese refugees with information on issues related to conditions in South Sudan, including security, livelihoods, education, food and water facilities. Other information relating to potential obstacles to return:

- the concepts and laws of discrimination, arrest/detention (cause, length, conditions)
- the concepts and laws of fair and due process
- the Government structure, judicial system and election procedures in Sudan; and
- marriage/divorce and acts of violence (if any aspect within these has a clear gender connotation).

The above topics and the specific counties for which return information was required were determined through needs assessments throughout the project cycle and visits by the ICLA sister-project in South Sudan (which also coordinated with other relevant agencies in South Sudan, e.g. IRC, UNHCR). UNCHR's South Sudan 'Village Assessment Database' was utilized to ensure that collected and requested data was compiled, using a consistent terminology and approach.

The information collected was disseminated at community meetings, focal group discussions, via weekly radio broadcasts on local FM stations and drama productions (street drama) using established community-based theatre groups. These methods were selected on the basis of impact and cost-effectiveness.

The **key reported impact** of this activity is that beneficiaries were 'better prepared' for their return. This was described by beneficiaries as having more information than prior to ICLA's interventions about such issues as:

- the UNHCR's voluntary return process (e.g. how much life-stock could be brought onboard)
- prices on food/non-food items (including farming items, e.g. seeds)
- water accessibility
- existing/emerging conflict zones
- mine-affected areas
- school access (including costs)
- climatic/seasonal effects
- existence of administrative/judicial services, how to approach these and the g. documentation required.

Beneficiaries also stated that they had more information regarding the institutions and organisations (including NGOs) to turn to for help on specific problems.

Example 2: GBV awareness raising for IDPs, Sri Lanka

In northern Sri Lanka, legal staff hold information sessions with IDPs on:

- the law on domestic violence, rape, incest, trafficking, marriage and divorce
- the legal process for taking a case to court (eg. giving evidence and whether there would be police involvement)
- the realities of taking a case to court (eg. how long it could take, whether an order will be enforced, the risks involved and support services available).

Women's groups are an obvious forum but men's and youth groups should also be included. Part of the aim of these sessions is also to make lawyers accessible to communities.

Over time, the team saw a change of attitude in some communities and a sense of possibility. The community in one camp decided it was not going to accept rapes, wanted punishments and reacted to some further incidents accordingly. Another important step was making women aware that they do not have to go to the police for domestic violence cases (the majority Tamil community being generally frightened to do so) as there is also a civil (and closed) court process.



The project team also discovered that the biggest deterrent to victims seeking medical or legal assistance was a lack of confidentiality. Accordingly, as an advocacy activity, ICLA worked on improving the confidentiality of psychosocial counsellors, the hospital services and the police (see **section 4.3** on GBV for more information). One reality the team faced, however, was the fact that the legal process was slow and implementation difficult, so the summary action of armed groups was sometimes more attractive to victims.

6.1.5 Accuracy, reliability and impartiality of information

In positioning itself as a provider of information ICLA must ensure it provides: reliable, accurate, up-to-date and impartial information. If ICLA is not in a position to collect and verify information itself it must:

- take steps to ensure that the information is procured from the most reliable sources;
- take steps to ensure the information has not been manipulated by any parties to the conflict to reflect their own interests;
- carefully consider the political orientation and gender biases of programme staff;
- provide beneficiaries with the source of the information; and
- alert beneficiaries to the absence of independent verification by NRC.

This is important for all types of information, but particularly in the case of return information (especially on issues of security) on the basis of which beneficiaries may make life changing decisions. See also 'Do No Harm' in **Section 3.5.6**.

If ICLA is not able to provide beneficiaries with high quality information, particularly in return cases, think about whether alternative approaches can be taken. For example, can ICLA facilitate potential returnees to collect their own information through 'go and see' visits or by providing returnees with telephone access.

6.1.6 Socio-economic information in a legal assistance programme

In some ICLA programmes, the provision of counselling and legal assistance constitutes the vast majority of services. Even in such programmes, the provision of information on socio-economic needs can be extremely valuable and a means of achieving real, durable solutions rather than the granting of bare legal rights. This issue was highlighted in an Azerbaijan evaluation report:

*“... the project has focused on legal issues primarily with regards to documentation and [property restitution or compensation, labour-related rights, pensions and other social benefits] ... These issues are both important and appropriate ... In addition however, given that a lack of access to basic services as mandated in the Guiding Principles and Azerbaijani law remains an issue in many IDP communities, this should probably be added as a priority area.”*⁴⁴

Accordingly, ICLA programmes need to be continually alert to the needs of the target beneficiaries and reassess and adjust the programme as required to meet these needs to the extent possible within the limitations of funds and programme documents.

6.2. Counselling

The ICLA ‘counselling’ activity entails the provision of basic, one-on-one assistance on any ICLA issue. It is a step beyond information on durable solutions or rights because it entails a degree of analysis of the problems faced by the beneficiary and advice on what is the best possible course of action to solve a particular problem. Quick one-off advice does not, however, in any way reduce the professional obligation to provide accurate and correct information or advice.

Counselling also includes referrals to other service providers, one means by which ICLA aims to take a holistic approach to protection.⁴⁵

Below are examples of services to which ICLA programmes have been referred:

- Providers of legal aid on issues not covered by ICLA;
- Psychosocial counselling service providers;
- GBV organisations;
- HIV/AIDs testing and counselling services;
- Medical facilities, including for reproductive health issues;
- Income generation and micro-credit schemes; and
- Organisations offering educational scholarships and skills training providers

44) NRC, ICLA Azerbaijan Evaluation Report, 2007, p 8

45) See the NRC Protection Policy, 2008, p 4: “Protection concerns which reach beyond the comparative advantage of NRC will be actively referred to national authorities, civil society, other NGOs, international organisations and donors as appropriate.”

In order to ensure referrals are effective and useful, quality information must be collected and regularly updated on the services provided by other organisations and their capacity to assist ICLA beneficiaries. Referring beneficiaries to organisations that are not in a position to provide the required support has zero impact.

To enhance the impact of referrals, programmes may wish to select a limited number of organisations only for referral purposes and establish close working relationships with those organisations both at the central and local levels.

Referrals may also be made on a group basis.



Example: Referring a community to an HIV/AIDS provider, Nepal

A community was identified by ICLA field staff in southern Nepal as highly vulnerable, in a very high risk HIV/AIDS group (due to the extensive travel of men to and from India for work) and with very low levels of HIV/AIDS awareness. NRC had already established a working relationship with a local HIV/AIDS NGO for the purpose of individual referrals. In this case, NRC shared information about this community with the NGO, which subsequently included this community in its regular awareness raising and testing activities.

6.3. Legal Assistance

Legal assistance may be defined as the activities enabling people to make informed decisions and choices to initiate and pursue legal and justice procedures. People may be in need of legal assistance because they do not know how to reach these procedures, or do not have the financial capacity to buy services from private providers. Legal and justice procedures may include sophisticated judicial mechanisms, administrative procedures, customary processes, etc.



"All persons are entitled to call upon the assistance of a lawyer of their choice to protect and establish their rights ..."

Principle 1, United Nations Basic Principles on the Role of Lawyers (1990)

Hence, legal assistance is essential to promote and facilitate the right to access certain specific rights depending of the outcome of legal and justice procedures but also to fulfil another fundamental right directly: the right to legal aid as a component of the right to access justice. Some of the key, human rights documents contain an express recognition of a right to legal aid. ICCPR, for example, recognises in Article 14(3)(d)) the right to:

"legal assistance ... in any case where the interests of justice so require, and without payment ... if [the accused] does not have sufficient means to pay for it".

Since Article 14 of ICCPR relates to criminal legal aid only, the free legal assistance envisaged is narrower than the provision of free legal assistance by ICLA. However, the concept is the same, ie. that legal aid provides assistance to beneficiaries otherwise lacking the capacity and ability to claim remedies against infringements of their rights or grievances as a consequence of actions or omissions of others. Legal assistance will enable them to make informed decisions in navigating legal processes.

In programme documents, donor proposals, etc it may also be useful to refer to the other basic human rights which would be inaccessible without free legal aid, such as equality before the law (UDHR, Article 7) and the numerous expressions of the particular rights applicable to the key ICLA issues.

6.3.1 Legal assistance by ICLA

According to the ICLA policy, legal assistance may be pursued through a number of forms and mechanisms:

“NRC provides legal assistance, usually through individual case work, but it may also entail class action. [...] NRC may pursue legal action through all relevant local, national and international legal systems and mechanisms, including customary law, conflict resolution and mediation mechanisms and any other prevalent systems of law- in addition to statutory law and the courts.”

Legal assistance implies some degree of representation between NRC and the beneficiary of the intervention. The beneficiary entrusts NRC, more or less formally,⁴⁶ to assist with the resolution of a specific legal problem or problems. The principal difference with information and counselling is that when providing those modalities of assistance NRC is not representing the beneficiaries throughout the process, rather they may solve the problems themselves. In the case of legal assistance, however, further NRC intervention is required. Furthermore, legal assistance requires the use of a legal analysis and methodology to approach and resolve the problems of beneficiaries, that is using rules and mechanisms before justices systems, to obtain a decision on the remedies that beneficiaries are entitled to.

‘Legal assistance’ may be provided on **any ICLA issue**, whether that issue is generally conceived as a ‘legal’ issue (e.g. a dispute over property rights) or has acquired a ‘legal character’ due to the fact that it relates to the denial of a particular legal or human right. For example, schooling for children is not generally considered to be a ‘legal’ issue. However, if IDP children are denied access to education (either on the basis of their IDP status or because they do not have the requisite documentation), their right to education has been denied. This becomes a legal issue and any active intervention in response to this issue by ICLA is categorised as ‘legal assistance’.

⁴⁶) See Section 6.2. for the minimum standards to be followed in legal assistance.

'Legal assistance' may take a wide variety of forms, ranging from sending letters on behalf of a beneficiary to the relevant government authorities or non-State entities, to alternative forms of dispute resolution and the preparation and representation of cases in front of courts. This will very much depend of the existing mechanisms and capacities in the different countries where ICLA is implemented.

An important task when involved in individual cases is to analyse and summarise cases of concern (often gender-related) and bring such concern up at a political level as part of the programme's advocacy initiatives wherever possible. (See **Section 6.4** below for more details on advocacy).

- In addition to the information on 'in court representation' and 'ADR' by ICLA below in this chapter, see examples of ICLA legal assistance in **Sections 4.2 and 4.3** above
- The chapter of this Handbook on ICLA Implementation, particularly with respect to the management of legal aid services (see **Section 7**)

6.3.2 Legal Assistance in formal justice systems

Formal justice systems involve civil and criminal justice and include formal state-based justice institutions and procedures such as police, prosecution, courts (also religious when stated by law) and custodial measures.⁴⁷

Generally, legal assistance provided by ICLA programmes in formal justice systems implies a wide variety of work before courts, including providing in-court representation through ICLA staff or outside counsel engaged to that effect. The extent of the assistance provided may vary from producing underlying documentation, collecting evidences, formulating legal arguments in different types of writs, accompanying beneficiaries throughout the process, representing them throughout the litigation and following up on the execution of the decisions.

ICLA programmes have used different litigation strategies in working with courts to overcome legal obstacles and obtain protection of rights. Strategies may vary from trying to reach as many beneficiaries as possible in order to get the highest number of cases processed, to the selection of specific test cases that can advance jurisprudence in a particular matter. A combination of both strategies is of course also possible.

The choice of litigation strategies will depend of a number of factors: donor requirements to deliver assistance to large numbers of people, the chances of success in particular legal issues, the length of the proceedings, the likelihood of local actors making use of the outcome of few test cases to advance the rights of a larger number of beneficiaries, etc.

It is also essential to remember that for ICLA programmes "winning" cases is not necessarily the only criteria for success. Even when cases are not won, successful litigation could imply visualizing specific legal issues, that cases are being processed according to minimum standards of due process,

⁴⁷ UNDP, (E. Wojkowska) 'Doing Justice: How informal justice systems can contribute', 2006.

that communities engage in policy discussions with authorities when judicial avenues prove not to be working, to advocate for structural changes in the justice sector (i.e. to ensure that backlogs are not so big that proceedings are unduly delayed), etc.

In engaging with formal justice systems ICLA programmes should carefully consider the following:

- The costs associated to proceedings before a court of justice;
- The legal requisites for representing clients in court: licenses, legal personality of NRC in the country, etc;
- Conflict of interest between beneficiaries that may benefit from different types of NRC assistance;
- Length of proceedings, not only at first instance, but also up to the higher instance including international bodies;
- Likelihood of achieving remedies and entitlements, not only decisions but also their implementation;
- Feasibility of obtaining evidence;
- Security, economic and other risks that may arise for the beneficiary;
- The beneficiary of the assistance should thoroughly informed of all dimensions (time, outcomes, risk) before starting a process before the courts.

➔ Further resources:

A practical guide to international treaty obligations in human rights, Southern Africa Litigation Centre



Example 1: Legal assistance (including in-court representation), Pakistan (earthquake)

The Pakistan program provided legal advice and in-court representation on issues arising directly from the disaster, including:

- declaratory suits to establish tenancy relationships so that tenants may access home reconstruction grants
- injunctions to restrict parties dealing with a property until a dispute is resolved
- tenancy disputes where housing is no longer in a habitable condition
- partition and demarcation disputes
- succession (inheritance) disputes
- family law cases, including divorce, dowry and guardianship
- the appointment of guardians so that a child can access his/her legal entitlements under rehabilitation/compensation schemes.

Approximately 85 – 90% of these cases were resolved and closed in less than 6 months, with the remainder taking longer than 12 months. This short time-frame for the large majority of cases was central to the program objective, that is, to resolve issues quickly so that the target beneficiaries could participate in time-bound rehabilitation programs.

The former Project Manager noted that in addition to the above categories of claims, other ICLA programs could consider filing cases for the judicial review of administrative decisions made under compensation etc schemes.

6.3.3 Legal assistance in administrative procedures ⁴⁸

Displaced persons often can access rights and services through the relevant administrative procedures and mechanisms. Administrative procedures are commonly used to address cases involving human rights, property restitution, access to housing, land tenure rights, documentation required for citizenship, recognition of displacement status or social benefits such as employment or pension rights. Much of ICLA's legal assistance is devoted to assist displaced persons in addressing their claims to the public administration bodies responsible for the delivery of services and rights.

Procedures before administrative bodies may require several rounds of interactions and even appeals to higher bodies still within the realm of public administration (i.e. administrative procedures not judicial). Usually, the administrative legal avenues do not require representation by a qualified lawyer but the procedures are so cumbersome that individuals may require assistance to navigate them.



Example: Legal assistance in administrative procedures from Colombia

In Colombia, the Law on Internal Displacement (Ley 387 de 1997) defines who is an internally displaced person. Accordingly, displaced persons who meet the definition of the law have the right to be registered in the Unified Registry of Displaced Population and to receive the assistance provided by the law until their rights are restored. The registration and the delivery of assistance are under the responsibility of "Acción Social" a body of Colombian public administration that will decide case by case on the basis of a declaration issued by the displaced persons themselves. The application of displaced persons may be rejected leaving them without access to assistance. The ICLA programme supports displaced persons in formulating their declaration and filing administrative appeals when the application is rejected. This assistance is essential for displaced persons to provide appropriate information to meet the rather narrow interpretation of the law by the authorities –which excludes many displaced persons from receiving assistance- and to formulate legal arguments in appeal writs.

6.3.4 Legal assistance before “informal” justice systems

Formal institutions and infrastructure are often not functioning, even not existing, in NRC countries of operations. This may be a direct consequence of conflict or natural disasters or simply a feature of countries with low development standards. In such contexts, the so-called informal systems may be the only avenues for displaced persons to address their claims.

What are informal justice systems? Informal justice systems can be referred to mechanisms falling outside the formal justice system and that are administered by non-state institutions. However, the term may not accurately reflect all circumstances and types of systems –religious, customary, popular, etc. Also, in many instances the division between formal and informal, state or non state-administered, etc does not reflect situations when the state recognises customary and religious institutions and religious and customary law is acknowledge as part of the legal framework.

48) For further reference see: UNDP, (E. Wojkowska) 'Doing Justice: How informal justice systems can contribute'.

Legal pluralism is inherent to countries with strong informal systems. Legal pluralism means the existence of multiple legal systems within one geographic area. Plural legal systems are particularly prevalent in former colonies, where the law of a former colonial authority may exist alongside more traditional legal systems. Addressing justice issues through informal systems in contexts of legal pluralism is not free from controversy. There are concerns that informal systems may not be fully in line with international human rights standards, in particular regarding due process and women's rights. Another concern is the validity and durability of decisions adopted by informal bodies, especially in situations where laws and rules may be at conflict with each other and decisions may be subsequently superseded by newly created institutions creating tensions among individuals and communities.

Weaknesses of informal systems	Strengths of informal systems
Unequal power relations and susceptibility to elite capture	Understandable and culturally comfortable
Unfair and unequal treatment of women and disadvantaged groups	Focus on consensus, reconciliation and social harmony
Lack of accountability	Possibilities of partnerships with the formal justice system
Opaque interface between informal and informal justice systems	Swift solutions
Non-adherence to human rights standards	Social legitimacy, trust and understanding of local problem
Unsuitable for certain important disputes	Informal justice systems often survive violent conflict
	Geographical and financial accessibility

ICLA programmes need to adopt a pragmatic approach to the use of informal systems. Despite the general goal of promoting rule of law and human rights (see **Section 3.5.3.**), solving the complicated cultural, political economic, social and legal problems arising from legal pluralism is beyond the realm ICLA activities. ICLA programmes should use informal mechanisms where they represent genuine opportunities to advance the rights of target groups and contribute to reaching durable solutions.



Example 1: Using jirgas and shuras in Afghanistan

In **Afghanistan**, problems related to realization of housing, land and property rights, such as tenure instability, secondary occupation, land grabbing and impunity, corruption in land allocation and government acquisition, are one of the greatest challenges facing returnees. The lack of fully functional and universally available land registration, allocation and adjudication systems is a contributing factor to instability and insecurity in some areas due to land-related disputes.

NRC therefore believes that any real and lasting resolution to issues of land restitution, access and administration will require attention to existing community methods, community acceptance and enforcement. NRC has found that if the informal systems are closely monitored, they can be highly successful in resolving land-related disputes, making decisions that are compatible with sharia and national law, enforcement and registration of those decisions with the formal system and administering agreements over land use. With increased training and capacity building activities, this trend could be readily encouraged and further systematized for use in a comprehensive land administration system.

Within many communities, customary practices related to land administration and adjudication are considered more equitable, accessible, cost and time effective than state mechanisms. In NRC's experience, participants in the informal process have an interest in securing more formal arrangements than those available at the community level. NRC has found that supporting the formal registration of customary documents and jirga/shura decisions is a way of tapping into existing beliefs to form links with the state.

Example 2 : Local Commissions and land disputes in Democratic Republic of Congo

In the current context in DRC, especially in the absence of functioning rule of law institutions able to solve land disputes respecting a minimum standard of due process, ICLA promotes the establishment of local Reintegration Commissions as mechanisms to address land disputes arising from displacement. NRC intervention aims to incite the communities to provide themselves with a tool to solve land disputes. At all times, the Commissions are rooted and find their legitimacy in the community, and are not NRC structures in anyway.

ICLA strengthens the capacity of the members of the Commissions to address disputes, especially through minimum training on national law and with certain material support necessary to carry out their tasks. ICLA will also bring cases to the attention of the Commissions and if necessary will provide legal expertise. Whenever possible, ICLA will ensure the decision is registered with the land administration authorities.

6.3.5 Alternative dispute resolution by ICLA

'ADR' refers to any of a number of procedures that people in conflict use to resolve their disputes outside of the courtroom, including negotiation, mediation, and arbitration. In most, if not all of the countries where ICLA operates, ADR is used in one form or another in traditional settings.

Commonly recognised benefits of using ADR instead of a court system for resolution of disputes are:

- **Speed** – cases are usually solved more quickly than in court. This is particularly relevant in post-conflict countries where the courts may not be functional or are functioning but have a serious lack of capacity or massive backlogs
- **Costs** – cases are less costly than in court and lawyers are often not required.
- **Win-win** – ADR, particularly negotiation, mediation and its hybrids, involves the participants more directly in resolving their disputes. As a result, the parties are happier with the eventual solution, and the resolution tends to improve relationships rather than increase ill-will. This is important if parties must continue to interact after the case – such as if they are part of one family or live in the same small village.
- **Cultural appropriateness** – ADR models are often in harmony with traditional methods of dispute resolution.

The disadvantages of ADR should also be recognised:

- **“Second class justice”** – it has been argued that ADR is the option for those who cannot afford lawyers and courts, and that those who cannot afford to go to court are less likely to truly “win” a case and more likely to end up in some sort of compromise.
- **Compromise** – critics believe that ADR encourages compromise, and that in some cases compromise is simply not appropriate.
- **Not Public** – ADR settlements are generally private and not a part of the public record. Thus they do not set precedent and are not subject to a formal review process.

The term “mediation” is most frequently used to describe ‘alternative’ forms of dispute resolution mechanisms for lack of a better translation. There are, however, important differences between mediation and arbitration modes of dispute resolution of which ICLA staff should be aware⁴⁹:

- **Mediation:** is when a neutral, third party assists two or more people in resolving their dispute. A mediator’s role is **not** to find the solution or to impose it. The mediator does not issue a verdict or reach a decision. The mediator’s role is to help the parties hold their conversation in a more effective manner. If the dispute is resolved it is done by the two parties reaching consensus. There are different styles and models of mediation (for example, single vs. co-mediator or panel mediation). Depending on the style, the mediator may or may not have technical knowledge relevant to the substantive topic at issue.
- **Arbitration:** is when a neutral, third party is given the task of taking a decision in a dispute. That decision is usually final and binding. This process is the closest of the three to a court room proceeding, although rules of evidence and procedure aren’t usually followed as strictly and the total process is quicker. The arbitrator usually has technical knowledge relevant to the dispute.

49) ICLA staff should use the terms as currently defined in academia and practice. In an environment where ADR is becoming increasingly mainstreamed, failure to use the terms correctly reflects poorly on the professional competency of ICLA staff. Secondly, a number of countries are moving towards regulating and licensing mediators under “codes of conduct” or even legislation. Under these codes, if NRC staff is described as mediators but they are acting as neutral facilitators, they will most likely be in violation of these codes or laws.

Other points for ICLA to consider when considering using ADR for the resolution of a particular dispute or as a programme-wide response to problems faced by beneficiaries are as follows:

- Are the courts functioning?
- Are lawyers available?
- Are the types of cases we are considering appropriate for ADR? (Most criminal cases are not).
- Is some form of ADR already being practiced traditionally – or has it been in the past?
- Is it possible to get the courts to recognize ADR decisions if one of the parties later goes to court?
- If you choose mediation – are your mediators truly neutral?
- Is there a hybrid model that lets you help the parties negotiate but that does not demand neutrality and that is appropriate for your country context?
- If mediation is chosen but is not successful in resolving the dispute, what will the consequences be? What are the next steps?

6.3.6 ADR - practical issues for Project Managers

Some practical issues that Project Managers should consider in relation to ADR activities are as follows:

- **Staff:** You will need national staff who speak local languages/dialects and are educated enough to grasp mediation/negotiation training, as well as basic legal training regarding the substantive issues covered. Even if the ICLA programme will be purely ADR-based, access to a qualified local lawyer will be required – whether as a staff member or as a regular consultant. Specialised technical staff may also be required. For example, in Liberia, hiring certified land survey teams is essential to resolving land disputes.
- **Training:** You will need culturally adapted ADR training materials. If these are not already available, Project Managers will need to create these or retain someone else for this purpose.
- **Transport:** If the work is mostly land related, your staff will need to have transport to visit the field on a daily basis – they will need to engage not only the parties involved but most likely a range of neighbours, elders, and other community members.
- **Field offices/costs:** Due to the constant field work, in order to save transport time you may need field offices or bases in a number of strategic locations. Cost implications of this need must be considered.

6.3.7 ADR example: Facilitated negotiation in Liberia



ICLA Liberia commenced in 2006, 3 years after the establishment of NRC Liberia. An ICLA proposal was prepared based on an ICLA model from another region. A consultant's assessment subsequently provided different recommendations, including a pure mediation program due to the lack of lawyers in Liberia. The Project Manager, however, was uncomfortable with the notion of a pure 'mediation' program as mediation requires neutrality. While NRC is unbiased towards issues such as gender, ethnicity and sexual orientation, it is not neutral since it advocates for the rights of refugees, IDPs and returnees. As mediators, NRC would not be able to compensate for power imbalances or be free to help the refugee/IDP/returnee pursue other options if the mediation did not end favourably.

One possible solution that ICLA Liberia considered was to train others (elders, community groups, etc) to be the mediators. This would allow ICLA to attend the mediation and help represent the returnee's interest in the mediation as ICLA would not be the mediators. However, ICLA found that it is not reasonable or practical to expect people to act as mediators, possibly requiring long and intense negotiations on a volunteer basis. Ultimately, ICLA Liberia chose an approach it refers to as **'facilitated negotiation'**. This allows ICLA to work with both parties, while specifically representing the interests of the displaced person/returnee.

The 'facilitated negotiation' activity

ICLA Liberia hires national staff who communicate well and will be convincing within local communities but are not lawyers. Some of the employees have worked for other NGOs, but some of the best employees come from other backgrounds such as community radio.

The staff receives a six-day 'train-the-trainer' mediation training, using materials developed specifically for Liberia by the ABA Africa Initiative. Although ICLA staff members do not act as mediators, their work requires many of the same skills, such as using multiple communication styles and methods and facilitating improved communication between the parties. Staff also receives a two-day training on Liberian laws and procedures on land-related issues such as land ownership law and procedure and inheritance law. Negotiation training would also be very relevant.

Cases are usually brought to the office, or to the staff in the field, by one of the parties involved. ICLA staff takes the case history, then usually conducts a background investigation and speaks with the other party. If the other party is willing to work on the case, ICLA facilitates negotiations between the two parties, while clearly representing the ICLA client. ICLA brings in other parties as relevant – including neighbours, village elder and local authorities. ICLA also informs both parties of the status of Liberian land law so that they can more accurately evaluate their situation.

If/when an agreement is reached, both parties sign a memorandum. In most cases, the land in issue has never been surveyed or demarcations no longer exist, so ICLA hires (and pays for) a survey team to conduct a proper land survey. Corner stones or 'demarcation trees' are placed along the survey line. The completed survey process also includes the preparation of a deed, which then allows the party to complete the statutory purchasing procedures through the government.

ICLA also uses the support of a Liberian lawyer, who assists with queries, for instance on the finer points of inheritance law, negotiation sessions when ICLA staff feel the lawyer's opinion will carry more weight or when the other party has a lawyer.

The lawyer also signs any court related work done by ICLA.

Training on land issues

ICLA Liberia's case work on land issues is supplemented by significant training of officials making decisions on land, local leaders and women and youth representatives on land laws. In most communities neither the key decision makers nor the community members understand the basic points of the land law or how to correctly acquire land. In addition, the (false) perception that women cannot inherit land continues to prevail in most rural settings. Explaining the proper procedures to people helps prevent conflict and builds the capacity of leaders involved in making land related decisions.

6.4. Advocacy

6.4.1 NRC Advocacy Policy and Toolkit



"Advocacy is a key pillar in NRC's work to improve the protection of displaced people. It encompasses the strategic use of information to influence stakeholders that are in a position to ensure the rights of refugees, IDPs and returnees ... In addition to being a field of specialisation, advocacy is a crosscutting activity. This makes advocacy everybody's business."

Introduction, NRC Advocacy Toolkit

The NRC Advocacy Toolkit, published in June 2008, describes advocacy as a "process for positive change" for which NRC must "visibly and effectively influence and change public policy and law" at the institutional level and supporting civil society and excluded groups in their efforts to hold decision-makers accountable at the community level (page 5).

A more comprehensive definition and a wealth of practical information on topics including: 'Do No Harm' in the context of advocacy activities (Chapter 2), effective communication across cultural borders, advocacy techniques (including use of the media) and planning and executing an advocacy strategy can be found in the Advocacy Toolkit (available on the NRC intranet).

To support NRC's advocacy efforts, an advocacy advisory structure has been established (see Advocacy Toolkit for details of Head Office positions), which includes the position of Protection and Advocacy Advisor (**PAA**). If no PAA is allocated to an office, the Country Director or Programme Director will be the responsible focal point for protection and advocacy related questions.

The role of the PAA is to coordinate in-country advocacy and also contributes to develop, run, monitor and quality test advocacy strategies. Planning and decision-making takes place within the hierarchy of the country office.

The primary roles and responsibilities of the Programme Director, Project Manager, Programme Coordinator (depending on the country office's staff structure) with respect to advocacy are to:

- decide what are the most important advocacy issues arising within ICLA thematic areas based on evidence gathered through programme activities;
- develop an ICLA advocacy strategy. (The ICLA PM is responsible, with the PAA in a supporting role.);
- participate in protection and advocacy planning, strategising, drafting key messages relevant to their programmes and the country programme as a whole;
- participate in protection and advocacy planning, strategising, drafting key messages relevant to their programmes;
- collect, provide and share information with colleagues via NRC's information sharing procedures and encourage staff to actively and regularly use this system;
- facilitate the set up and running of information sharing systems within their programmes.

6.4.2 Advocacy in ICLA

Within the ICLA context, advocacy is an effective means of instigating changes which may benefit a large percentage of its target groups, whether directed towards local or central level authorities, informal or formal institutions. Fundamental to ICLA advocacy initiatives is that, through the provision of services, ICLA has the empirical data to support its advocacy positions. ICLA staff repeatedly states that it is their hands – on approach that places ICLA in a unique position to contribute to or undertake informed advocacy initiatives, also with respect to the creation of new laws and government policy.

ICLA's regular interaction with the justice system provides added value to its advocacy activities, since the courts should apply legislation and make decisions directly affecting the rights of beneficiaries. Whether cases are won or lost in court, the arguments used by judges in their decisions can be used by ICLA programmes to influence policy and legislation development to the benefit of the target groups. This is also valid for religious and customary systems where the value of precedent (i.e. how has the community solve a problem over a certain period of time) is sometimes stronger than in formal contexts.

To facilitate the identification of cases with an advocacy value, the Afghanistan programme developed the concept of 'principal cases', which it defined as set out below.



Example: identifying 'principal cases' for advocacy purposes, Afghanistan

What is a principal case?

A principal case is one that, if raised, will highlight significant issues and obstacles that prevent refugees, returnees and IDPs from accessing legal remedy towards long term durable solutions.

Factors considered when *identifying principal cases*:

- 1) Have exhaustive legal or administrative procedures been insufficient to obtain remedy locally?
- 2) Does the case fit the following NRC *definition* of a principal case:
 - Representing a recurring trend in cases;
 - Grave violations of human rights;
 - Is it practically possible for NRC to approach obtaining a decision (i.e. is it safe, is it possible to get support/interest from local authorities such as governor, MPs or district governors?).
 - Is a joint intervention with other agencies/political support more appropriate or even necessary to provide assistance?
- 3) Does pressure from extra judicial and unofficial sources make political intervention the only means to achieve remedy?

Further examples of ICLA advocacy activities are set out below.



Advocacy example 1: Forceful eviction of IDPs resolved, Azerbaijan

"In May 2006, 28 IDP families who had been in Agjabedi since 1992 and thought they had legal residence documents were told they would have to vacate their land without compensation. ICLA helped the IDPs to lodge a formal complaint to the Ex-com, and the legal team mobilised the support of other national and international actors, including the State Committee on Refugees and IDPs and UNHCR on behalf of the IDPs. As a result, the case was reviewed, and appropriate alternative housing was made available to the families, in line with the Guiding Principles on Internal Displacement."

Advocacy example 2: Distribution of identity cards in the field, Pakistan

NADRA, the Pakistani authority for issuing national identity cards, usually depended on walk-in applicants. NADRA's rules did, however, provide for mobile trips in exceptional circumstances. As some NADRA offices were located at a considerable distance from the place of residence of earthquake, IDPs and beneficiaries needed to make several trips to complete the ID issuing process, through advocacy efforts, ICLA convinced NADRA to make frequent, joint mobile visits. As an incentive, ICLA arranged most of the logistics including providing vehicles, fuel, photocopy machines and a generator. These trips significantly increased the number of national identity cards distributed to ICLA beneficiaries.

Advocacy example 3: Development of national policy on IDPs, Nepal

At the outset of the ICLA programme, prior to the commencement of service provision, a 3-day workshop was held for high level Government and NGO representatives, with support from IDMC. The primary objectives of the workshop were to ensure at least a working understanding of IDP issues amongst the individuals and institutions that would be ICLA's key counterparts and to discuss issues of concern in the new, draft IDP policy. Perhaps even more importantly, the workshop

also served to:

- allow NRC and other NGOs present to develop working relationships with their government counterparts;
- allow workshop participants to gain an understanding of IDP issues from each other's perspectives;
- enable workshop participants to identify each other's capacity and strategise as to how this might be leveraged (eg. which NGO had expertise in community reconciliation and could assist the Government revise this section of the draft policy)

Subsequently, NRC was requested to provide significant technical support for the revision of the draft policy, which was finalized two months later, substantially in accordance with the Guiding Principles on IDPs.

A legal directive for the implementation of the policy was then required. To facilitate its drafting, NRC hosted a further workshop together with the relevant Government Ministry and UNCHR, and assisted the Ministry request a ProCap secondee for intensive drafting support.

ICLA Advocacy Example 4: Advocacy in disasters

The scope for successful advocacy in natural disaster contexts may be higher than in conflict scenarios. Governments may be more receptive to new ideas and dependence on donor money may pave the way for quick results. In Pakistan, ICLA prepared a research paper on the Pakistani law of eviction. On the basis of this paper, which contained the procedures to be followed and the period of notice to be provided to evict occupants from any property, ICLA was able to persuade the authorities to refrain from evicting IDPs who occupied government flats, without following due process requirements.

6.5. Protection and return monitoring

It is important to distinguish between protection monitoring and return monitoring. Protection monitoring is beyond ICLA's realm and is enshrined in the Protection Policy:

“As an integral part of any core activity project and in close dialogue with target groups, NRC will gather information regarding the specific protection objectives of the project, taking into account requirements for confidentiality and referral paths. NRC will gather information about other protection-related issues that are not directly informed by programme activities but have direct consequences for the protection of NRC's target groups.”

Currently, NRC implements a number of stand-alone and integrated protection monitoring projects. They do not fall under any of the five core activities which leads to a certain policy and institutional vacuum. NRC is developing policy guidelines to establish the minimum criteria for deciding when to engage in new protection monitoring projects.

The ICLA policy refers to return monitoring as a mean of gathering information on return processes. Sometimes return monitoring will provide the basis for other interventions by NRC Core activities or other actors. The modalities are very similar to those of protection monitoring and will be further developed along with the guidelines for those activities.



An example of monitoring activities: Burundi

ICLA in Burundi has developed further the traditional return monitoring activities. The programme has become an NRC internal monitoring and evaluation hub providing support to the other core activities. ICLA will apply its data collection and analysis methodologies, especially quantitative, to provide the other core activities with recommendations towards improving programme delivery. Its more “traditional” monitoring activities include observing and assessing the conditions for return in Burundi, the repatriation process from Tanzania and the attitudes and information of Congolese refugees in Burundi towards return. Findings are made available to the humanitarian community, authorities and other stakeholders.

6.6. Capacity Building

6.6.1 What is capacity building?

Capacity building of local stakeholders is an important component in promoting the impact of NRC's programmes beyond their immediate programme activities and term.



“Capacity building refers to activities that improve an organization's ability to achieve its mission or a person's ability to define and realize his/her goals or to do his/her job more effectively. For organizations, capacity building may relate to almost any aspect of its work: improved governance, leadership, mission and strategy, administration ... program development and implementation ... advocacy and policy change ... etc. For individuals, capacity building may relate to leadership development, advocacy skills, training/speaking abilities, technical skills, organizing skills, and other areas of personal and professional development.”

The NRC position on capacity building is set out in the Protection Policy as follows:

“NRC will work to strengthen the coping mechanisms and existing protective structures of displaced communities. NRC will give trainings to relevant actors, including displaced communities, government officials, police, military, UN and NGOs, on IDP Guiding Principles and protection, in particular through IDMC ... such trainings will include a strategy and plan of action to follow up identified protection concerns.”

6.6.2 Capacity building in ICLA

For ICLA, capacity building is an opportunity to:

- enhance the sustainability of its activities, its methodologies (particularly an outreach-based approach to service provision) and an increased understanding of the issues it addresses
- to contribute to longer-term peace building and rule of law initiatives
- to facilitate relevant State institutions to fulfil their obligations to ICLA's primary beneficiaries
- to engage in dialogue with decision makers which otherwise would be impossible.

The capacity building of local stakeholders is a complex activity. In order to be successful, capacity building activities need to be thoroughly planned and monitored. A few tips to follow are:

- Precisely define the activity, ie. what or whose capacity will be built and for what purpose;
- Be extremely realistic, in terms of the scope of the planned capacity activity, the objectives of this activity and the time required to fulfil those objectives;
- Whenever possible, ensure that the capacity building activity is part of a broader capacity building initiative (perhaps a wider donor programme or an inter-agency effort), in recognition of the fact that most short-term and piecemeal projects are generally low in impact⁵⁰;
- In the case of local NGOs, differentiate carefully between the implementation of ICLA activities on behalf of NRC and the capacity building of that organisation;
- look carefully at the real needs of the organisation ICLA is seeking to assist: Does it need skills and/or knowledge transfer or are its real needs political support, ongoing financial support and/or political will within that organisation?;
- When selecting targets for capacity building, note that the main actors such as mayors, chiefs and other established local leaders will often be male. The gender consequences of capacity building activities need to be considered. Alternatives, such as building the capacity of female leaders by partnering with a local women's programme, may be more appropriate.

50) See, for example, Ian Smillie, *Patronage or Partnership: Local Capacity Building in Humanitarian Crises*

This book, supported by the International Development Research Center, can be read in its entirety from [this website](#).



Building the capacity of customary authorities: Codifying principles of customary tenure in Acholliland, Uganda

To help address the problems in Northern Uganda, NRC formed a partnership with the Ker Kwaro Acholi (KKA), the traditional cultural institution for the people of Acholiland.

The customary system in Uganda faces particular challenges due to misconceptions both locally and nationally regarding how it works. Twenty years of conflict, subsequent displacement and breakdown of traditional social structures has also meant that the elders have not had the opportunity to have the regular Wang-oo (fireside teachings, sharing and discussions with the community and youth on societal rules and traditions) that they would have had when people lived in villages. As a result many younger people nowadays do not fully understand what the traditional rules are. This is made worse because many land grabbers that do know the rules manipulate them to their own benefit.

Further, changes in context have lead to many situations that were simply not present in the past. Due to the conflict and social breakdown, there are now far more separations, divorces and children born out of marriage. Women living in camps are particularly vulnerable as they are often forced to enter relationships to gain access to resources and security. The conflict and the presence of AIDS have also lead to a greater number of deaths resulting in more widows and orphans.

NRC worked with the chiefs to codify and disseminate the principles of customary tenure to the population. It was hoped that this would enable the vulnerable to know their rights and hold land grabbers to account, but also to reaffirm the role and status of the chiefs and further provide an opportunity to review and discuss the rules given the changing times.

To support the understanding of the rules, the council of chiefs also considered approximately 25 real life case studies recorded by NRC legal staff. For each problem the chiefs commented on how they would resolve the case, then further comment was made on how this related to the documented principles. These case studies were then provided along with the rules to aid interpretation. This second process of discussing case studies was in fact so popular that the chiefs expressed the desire to have regular meetings to discuss cases recorded by the chiefs with a view to creating precedents to that could be used in the future to guide chiefs in resolving land disputes.

NRC has printed 30,000 copies of the Principles and supports the KKA to disseminate them among the population. Dissemination does not only include distributing the Principles but also training key institution and actors in their content and use.



Other examples of capacity building activities:

- Training sessions for civil servants, civil society and legal profession representatives on the methods of protection and enforcement of legal rights of the earthquake affectees (Pakistan earthquake)
- Training of paralegals working with an established community-based network of paralegals in order to increase the knowledge of ICLA's legal services amongst the target group, to enhance communication (including translations) with beneficiaries and, in the longer-term, facilitate both individual and community self-reliance on the relevant legal topics (Uganda West Nile)
- Secondment of junior legal aid lawyers from the Nepal Bar Association, ICLA's official partner in Nepal, for a 3-month period to ICLA field offices. This activity was designed to transfer knowledge of issues affecting IDPs and how to address those issues to the Bar Association, while circumventing a declining interest in ICLA at the Association's executive level

➔ Further resources:

While a comprehensive analysis of capacity building is beyond the scope of this handbook, there is a large volume of material available on this topic in the context of the development sector (and, to a lesser degree, in the humanitarian sector). Useful examples include the following:

The FAO Capacity Building Portal, with a searchable documents database
<http://www.fao.org/capacitybuilding/initiatives.jsp>

UNDP Capacity Development website
http://www.capacity.undp.org/index.cfm?module=ActiveWeb&page=WebPage&s=capacity_development

This website contains links to a large number of useful documents, including tools for capacity assessments, tools for measuring capacity development and lessons learned, for example, the document 'Institutional Reform and Change Management: Managing Change in Public Sector Organisations', 2006, at:

This report highlights the development/humanitarian sectors' failure to acknowledge the element of change in attempts to build the capacity of public sector organisations. The report sets out important lessons learned, including the time required to achieve genuine change and the long-term planning necessary for this purpose.

Patronage or partnership: Local Capacity Building in Humanitarian Crises
http://www.idrc.ca/en/ev-9333-201-1-DO_TOPIC.html

PART 7 – ICLA IMPLEMENTATION

This chapter reviews practical issues related to the provision of information, counselling and legal assistance services that are essential for successfully implementing ICLA programmes. The chapter covers many grounds, from the need to establish beneficiary selection criteria to ethical and professional standards applicable to the legal profession. It also reviews the specificities of ICLA implementation in natural disasters and in cross-border operations. Monitoring, reporting and evaluation, which are integral parts of the project management cycle, are also addressed, as adapted to the needs of legal programming.

7.1 Beneficiary selection criteria

According to the ICLA policy:



“ A specific objective of ICLA is to contribute to the improved protection of particularly vulnerable individuals, such as sex and gender-based violence victims and female heads of households.” “Primary target groups are refugees, IDPs and returnees. Particular attention will be given to vulnerable individuals and groups”.

The ICLA policy is in line with the humanitarian principle of providing assistance to those that need it most. ICLA programmes should ensure that assistance is not delivered to individuals or groups that have the ability to access durable solutions by their own means, with the exceptions that are specified below. Besides, in many ICLA programmes the size of the target group is very large and it will be materially impossible to deliver assistance to all potential beneficiaries. Hence, it is important that ICLA programmes establish beneficiary selection criteria that is in line with humanitarian imperatives and ensures efficient allocation of resources.

In the Uganda (West Nile) programme, ICLA provides assistance to the Sudanese refugee population estimated at 165,000. Although ICLA is able to utilize radio programming to provide information to a significant percentage of this population, ICLA is clearly unable to provide counselling (individual assistance) to everyone in this group. Accordingly, ICLA needs to determine the categories of individuals with specific needs who require more intensive forms of ICLA assistance. Accordingly, women at risk, single parents, children, elderly and handicapped persons were selected for counselling and legal assistance. (For information on secondary target groups, see also **Section 5.1.5**.)

On the other hand, not everyone in the primary target group may require assistance. In Nepal, for example, approximately 10 – 20% of IDPs were high caste, wealthy and politically connected. ICLA responded to this demo-

graphic group in two ways. Firstly, ICLA provides services to IDPs on the basis of their current vulnerability status rather than their pre-displacement status. Accordingly, if a former landlord has been reduced to a position of poverty or homelessness as a result of his displacement, he would receive the same services as any other vulnerable person within ICLA's target group. Secondly, for IDPs who are not vulnerable, information services will be provided but, as a general rule, no counselling or legal assistance.⁵¹ Vulnerability indicators were included in the Nepal client registration form (see Appendix 5) to guide staff in making a fair assessment as to beneficiaries' vulnerability status.

In the **Pakistan earthquake programme**, although no 'means test' was used to differentiate between rich and poor clients, ICLA generally discouraged displaced persons from using its services if they had sufficient resources to hire private lawyer.



Example of the criteria applied by ICLA in Afghanistan

Generally, to be defined as 'vulnerable', a person or group must not have available assets (money or material goods) that can afford them a private lawyer, and it should not be more than 3 years since their return, if a returnee. Even if a person meets this definition, our caseload may limit our ability to take on new cases. If so, additional selection criteria can be used, including:

- Does the person or group face some eminent risk or ongoing hostility?
- Are they members of a highly vulnerable segment of the population or one that has been traditionally discriminated against (eg. women in conflict areas)?
- Do they have any visible assets of significant value, or have they mentioned assets of significant value? (Each client should sign a vulnerability form stating whether such assets exist.)
- Are any livelihood activities available to them or can they otherwise access resources?
- Were they displaced within the last 3 years and does this still clearly affect their lives (eg. ability to find food and water, access shelter)?
- Did the events giving rise to their claim occur as a lead up to, during, or in the aftermath of their displacement? Did their displacement stop them from pursuing the claim at a previous time?

51) Some NRC Nepal national staff argued strongly for the provision of land and property-based legal assistance to politically-connected IDPs, even if they were not vulnerable.

They argued that ICLA assistance was justified on the basis that these IDPs would not be able to reclaim or access their property without the intervention of an impartial, third party (ie. NRC). However, legal assistance for the return of large tracts of agricultural and extra houses to non-vulnerable persons was not considered to be meeting a humanitarian need and therefore, outside the scope of NRC's mandate.

Besides socio-economic status, another important selection criterion particularly relevant to legal assistance is the chances of success of a particular case. In certain contexts, it is preferable to run a case through the court system because the chances of success are high and the precedence may bring positive change to a larger population, even if the beneficiary of the assistance is not meeting the usual beneficiary criteria. This does not preclude an ICLA programme from choosing to litigate cases where it is known beforehand that the cases will be lost. The objective here could be to force the judicial machinery to provide reasons for rejecting the claim and this could be use as advocacy material later.

All policy decisions on cases and beneficiary selection should be clearly set out in a legal assistance manual, programme guidelines or other policy document available to all staff to ensure clarity within the programme.

7.2 Laws & standards applicable to legal practice

There is number of standards applicable to the provision of legal assistance. These vary depending on the jurisdiction. In countries where a functioning Bar Association or Law Society is present, there may be country-specific ethical standards **legally binding** on all lawyers. NRC must ensure that all lawyers comply with such standards and any other laws regulating the legal profession. Particularly, project managers should apprise themselves of any local laws regarding the potential legal liability of lawyers (such as for the negligent provision of legal advice) and take appropriate precautionary measures.

Where there are no country-specific standards, project managers may wish to refer to the codes and standards listed below. Where feasible, project managers may also wish to consider supporting the development of a national bar association or legal aid code of ethics as a capacity building activity.⁵²

International Bar Association, 'International Code of Ethics' (1988)

This is a clear and concise, 3-page document listing the most important rules of professional, legal ethics, derived from western-based systems.

Council of Bar and Law Societies of Europe⁵³, Code of Conduct for European Lawyers, (1988)

This Code (9 pages) contains similar principles as the International Bar Association document, such as on confidentiality, professional integrity and conflict of interest.

The Southern Refugee Legal Aid Network⁵⁴, 'The Nairobi Code: Model Rules of Ethics for Legal Advisors in Refugee Cases' (2007).

This 9-page document is focused towards the provision of assistance by legal advisors to refugees, including refugee status determination procedures. However, it also contains a very clear and simple statement of the fundamental standards of legal practice, including the provision of service in a non-discriminatory manner, with the voluntary, informed consent of clients, ensuring that clients remain in control of the representation.

The United Nations document 'Basic Principles on the Role of Lawyers' (1990) http://www.unhchr.ch/html/menu3/b/h_comp44.htm

Articles 12 to 15 of this document contain a brief statement of the responsibilities of lawyers.

The American Bar Association, 'Standards for the Provision of Civil Legal Aid' (2006)

This extremely comprehensive document (290 pages) covers everything from standards in the identification of legal needs, cultural competence and staff diversity to confidentiality, legal research, analysis and case planning.

52) In Nepal, partly in advance preparation of ICLA's closure, ICLA is providing input to a European Commission/Nepal Bar Association project for a manual on the provision of legal aid, targeted at young lawyers. The manual will provide guidance on how to deal with frequently arising legal issues in a legal aid context. NRC is contributing the content on civil documentation for this manual.

53) The Council of Bars and Law Societies of Europe is a representative organisation of lawyers before the European Union. Its members include the 31 states of the EU and 10 observers. The Code of Conduct has been accepted as binding by all members and observers, hence it is the applicable code for EU cross-border legal activities.

54) The Southern Refugee Legal Aid Network is a coalition of primarily south-based refugee legal aid providers, including Amera and Asylum Access.

While the above standards apply to the provision of legal services by lawyers, they also serve as an extremely useful guide for all staff engaged in ICLA information, counselling or paralegal activities (including advising on civil documents).

The NRC Code of Conduct is also a highly relevant document to the standard of ICLA services, including standards of professionalism, conflict of interest, confidentiality and ethical conduct.

An additional standard which is not contained in the above documents, as they mostly relate to for-profit legal practice but is reflected in the Code of Conduct, is that ICLA will never accept payment of any kind for services provided (see **Section 6.3.** below).

7.3 Free service provision

As a general rule, ICLA's services are provided free of charge. In this case, as some ICLA services, especially legal advice, may also be procured from private service providers, it is important to ensure that beneficiaries know ICLA's services are free. It is recommended to post a sign to this effect (in the relevant languages) in all legal aid/information centres to minimise the risk of charging by ICLA staff. In the Pakistan earthquake programme, a file receipt provided to clients also contained a statement regarding the free provision of services. ICLA staff members are also not permitted to provide any legal/information services for a fee, whether within or outside of working hours. Staff should be specifically informed that this constitutes a violation of NRC's Code of Conduct.

In some programmes, ICLA has elected to for beneficiaries to pay or share the costs of documentation and other services.

Further issues to consider:

- ICLA programmes may elect for beneficiaries to pay for their own documentation costs. If so, please consider the practical issues raised on this point in **Sections 4.1.3 and 8.4.**



Example of cost sharing with beneficiaries in Liberia

The Liberia program found that a culture of dependency had already developed, with beneficiaries expecting very high levels of service and results, without their participation. Accordingly, ICLA intentionally decided not to cover all costs. For instance, in court cases, ICLA pays the lawyer, but some basic court fees are left to the client. For land surveys, ICLA pays the survey team, but expects the client to supply labour (usually family members) to help cut through the jungle to demarcate the boundaries and to feed and, sometimes, house the survey teams in their own homes.

- In civil cases, the losing party may be required to pay court costs and the other party's expenses. If civil claims are to be pursued (or any other claims with costs implications), payment of these costs will need to be considered. In other words, will ICLA pay? If that is the case, these costs need to be budgeted (donors may not approve these costs). If not, can the client afford to pay?

7.4 Legal aid procedures

As frequently noted in this Handbook, each programme (and therefore, each legal aid/information service) must be adapted to the country context. However, Appendix 5 refers to a number of documents which may assist ICLA managers. These documents have not been vetted by the drafters of this Handbook or approved for programme-wide use. Rather, they are simply examples of documents produced by other programmes which may be a useful source of ideas for project managers and project coordinators.

These documents include forms for incoming cases, flow charts for case processing, standard case closure and case rating procedures, etc.

➔ Further resources:

Guidelines for Handling Legal Aid Cases, produced by a European Commission legal aid project in Nepal (see Appendix 5).

Although these guidelines, read in full, may be too sophisticated for most NRC contexts, they contain useful information on topics such as: an elaboration of what it means to “zealously” represent a client; ensuring that representation of a client is controlled by the client (not the lawyer); and record keeping.

7.5 Information management

7.5.1. Databases and case management systems

NRC is aware of the need to create a standard case management system ready and available for new programmes and adapted easily to existing programmes as required.⁵⁵ However, this tool is not yet available and programmes are developing their own systems to handle voluminous and complex information about beneficiaries and service provision.

ICLA databases perform several important functions:

- To maintain up-to-date and easily accessible client information;
- To collect and produce reports on the demographics of ICLA's beneficiaries (e.g. age, gender, ethnic group, and indicators of vulnerability),

⁵⁵ This was first highlighted by the evaluation of the Civil Rights Project in the Balkans: Legal Aid Against the Odds.

services provided and protection issues - this information will form the basis of a wide range of activities, particularly advocacy initiatives;

- Ongoing monitoring of the project at the field and country office level from an analytical/outcome-focused perspective; and
- Management of the project resources at the field and country office level, for example: monitoring the caseload of various staff members or field offices; providing comparative information on the issues being dealt with by field offices and the services being provided in response; the comparative gender balance of clients across field offices, etc.
- To analyse the functioning of the justice systems. For example, a database could deliver information on the average time it takes to process a case through the system.

Two styles of database have been in used in the ICLA project to date: a comprehensive system which contains a case management function, and a simpler version which can be used for data collection and analysis only. In some projects, no database has been used and information has been collected in spreadsheet form only (e.g. Liberia).

A comprehensive database was initially developed for the projects in the former Yugoslavia. The case management function in this database allows lawyers to track the services provided to clients and contains reminders and deadlines for filing documents, court appearance dates, etc. In several countries where this type of database is in use staff has reported that the case management function is not extensively used and many field staff resorted to the use of spreadsheets or other more accessible tools. However, depending on the case load of an office, the manner in which its work is organised, a case management tool may still be useful.

The **advantages of a simple system** include: less time and resources required for database development (or adaptation of an existing database); less time and resources expended on data entry; the system is less complicated to operate (fewer specialised staff required); and the system will be more stable (less prone to bugs and crashing). The disadvantage of a simpler system is obviously a lower level of information recorded and corresponding reporting ability.

Additional considerations for Project Managers in selecting an option are:

- How flexible is the system? Can it be changed according to the needs of a developing project?
- Which software will be used? What are the pros and cons of that choice? (For example, Microsoft Access is readily available and easy to use but cannot handle large text entries well.)
- Who will design and set up the system? A staff member or local supplier? What happens if that staff member leaves? Will someone else know the system?
- Is local expertise available to operate, repair or modify the system when problems arise?

- Is it possible to hire a staff member dedicated to the management of the selected system?
- Who will be responsible for data entry at the field level?
- Can information be entered at the field level sent to the Country Office and merged into a single database? If so, what transport options or internet connections are available to do this?
- How will the data be backed up and updated?
- What reports do field staff and the PM need to manage their work? Can these be easily produced? (At least one report needs to be produced from the database which is consistent with Core Activity Database requirements).
- How will the data be secured from manipulation or disclosure? Will passwords be assigned only to certain persons, etc?

Whichever tool is selected by a Project Manager, ICLA staff has repeatedly emphasised the importance of establishing this as soon as possible in the project and preferably before project activities commence. This **prevents a backlog** of cases, which are sometimes never entered and therefore, not reflected in project statistics.



"To create and maintain well adapted systems for tracking and documenting all activities, beneficiaries and cases is equally essential to corresponding budgeting and financial systems. These should be implemented at time of operational start-up to allow for practical, necessary analyses and case handling ... this tracking/handling system should include capacity to undertake comparative assessment of legal strategies related to particular sites, groups, ages, etc ... Much time would have been saved and various analyses more accurate if the system had been implemented at operation start-up."

West Nile, Uganda, donor report, 2008

Below is a sample of the different types of databases in use across the programme and therefore available for review or use in other ICLA projects.

ICLA Project	Database Utilised
Afghanistan	Established at the start of the project in 2003. Based on the earlier former-Yugoslav version. System improvements are being made in mid-2008 to facilitate easier transfer of files between field offices and appropriate cross-referencing in the database (this problem was also reported in Nepal and Uganda). Improvements in the way the database is being used by ICLA staff are also being made, including enhancing the quality of information entered into the database by data assistants and ensuring that the information required for the PM's reporting purposes is being entered.
Pakistan	Developed a new database through a local IT service provider, based on the Afghanistan version but removed the bugs and added new features, including significantly expanded reporting function (30 – 40 reports are possible). Spent approximately 3 – 4 months developing the database, including testing.
Nepal	Developed a new database through a local IT service provider. The Afghanistan in-take form (with necessary modifications) was used as the base. Does not contain a case management function. Spent approximately 2 – 3 months developing the database, including testing of corresponding in-take form and service provision forms.
Uganda (West Nile)	Influenced by the Pakistan/Afghanistan versions. However, due to low levels of legal assistance provision, a new version was developed which has a user-friendly interface but lacks some tracking tools (e.g. when a client has more than one case) of the Pakistan/Afghanistan versions.

7.5.2 Collecting data: consent & confidentiality

Even before developing a database, project managers need to carefully consider the types of information that needs to be collected, as well as how it will be used and stored.

In particular, ICLA staff should obtain the **expressed consent** from those providing data (including photos) – whether the data will be used for the provision of services or, for example, in ICLA advocacy materials. Obtaining appropriate consents and maintaining data confidentiality are key components of ethical service provision. Sometimes written consent can be misinterpreted due to cultural reasons or simple ignorance due to illiteracy and social conditions. NRC programmes shall in all cases do their utmost to inform individuals of the meaning of providing consent and emphasise that future assistance will not be hindered if consent is not provided. Once collected, ICLA should **not** provide personal information from its database to any third parties, including governments, related authorities, NGOs or the UN unless NRC has the **specific, voluntary and informed consent of each individual**.

See, for example, the following rules from the Council of Bars and Law Societies of Europe's Code of Conduct for European Lawyers:

"2.3.1. It is of the essence of a lawyer's function that the lawyer should be told by his or her client things which the client would not tell to others, and that the lawyer should be the recipient of other information on a basis of confidence. Without the certainty of confidentiality there cannot be trust. Confidentiality is therefore a primary and fundamental right and duty of the lawyer.

The lawyer's obligation of confidentiality serves the interest of the administration of justice as well as the interest of the client. It is therefore entitled to special protection by the State.

2.3.2. A lawyer shall respect the confidentiality of all information that becomes known to the lawyer in the course of his or her professional activity.

2.3.3. The obligation of confidentiality is not limited in time.

*2.3.4. A lawyer shall require his or her associates and staff and anyone engaged by him or her in the course of providing professional services to observe the same obligation of confidentiality."*⁵⁶

However, ICLA should be able to generate a wide range of reports and statistics from its database which do not contain personal details. Depending on the context, this may be shared. (See also **Section 8.7** on Information Security).

➔ Further resources:

Sample Nepal consent forms and the Uganda programme's draft client registration form which contains a consent statement (see Appendix 5).

IDMC/OCHA 'Guidance on Profiling Internally Displaced Persons'

InterAction's⁵⁷ Working Group on Protection, 'Data Collection in Humanitarian Response: A Guide for Incorporating Protection', 2005.

This simple 15 page document contains statements on ethical principles in data collection (which could also be used by applied to the collection of material for news stories). It contains several, helpful checklists including on the topics of 'Do No Harm' and 'informed consent'.


WHO consent form

This form relates specifically to consent from parents on behalf of their children but this form, together with included notes, could apply to children as well.

⁵⁶) Council of Bars and Law Societies of Europe, Code of Conduct for European Lawyers'.

⁵⁷) InterAction is a coalition of over 160 U.S.-based INGOs

7.6 Outreach activities

 *“Traditional legal aid services continue to operate on an appointment basis and with the expectation that the clients have sufficient wherewithal to be able to identify that they have a legal problem. Traditional models of delivering legal services presume that people can overcome their fear and that even if they have no money or power that they can still seek advice and that they will in fact walk into a legal office. The research reveals that such a traditional model continues to miss a section of the community who may be in desperate need of legal assistance. One way of reaching them is to bring the legal service to places where they are most likely to find the people who need it, rather than always expecting people to come to the legal aid services.”*⁵⁸

The above quotation is based on a study conducted primarily in the UK but is equally applicable to all of NRC’s programme contexts. In conflict/post-situations, the fear of formal bodies or organisations is prevalent. Other factors which frequently prevent ICLA beneficiaries from seeking legal aid services is their lack of mobility (such as in the case of mothers with small children), a lack of transport and restrictions on the freedom of movement due to security threats (the enclaves in the Balkans) or Governmental restrictions (certain IDP camps in Sri Lanka). Additionally, if beneficiaries do not appreciate the importance of information and legal assistance, they also will not make the effort to visit an ICLA office. Accordingly, outreach services form a key feature of ICLA’s activities and serve as a point of differentiation between ICLA and many other legal aid or rights-based programmes.

Providing services in the field, however, can be more time consuming and resource intensive, particularly where vehicles are required to reach beneficiaries. These factors should be reflected both in a project’s budget and in the target number of beneficiaries. Logistics (e.g. mobility during wet or snowy seasons), communications and security considerations also require greater attention. Again, consider the impact these considerations will have on numbers of target beneficiaries reached and ensure that project goals are realistic.

58) L. Curran, ‘Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People’, La Trobe University, Australia, 2007.

In order to improve the efficiency of field visits, a few basic tips should be followed:

- Use mobile ‘clinics’ where possible to ensure that services can be provided to a larger number of beneficiaries per day;
- Advertise planned field visits/mobile clinics well, including through communication channels that will reach women and other highly vulnerable persons;
- Where mobile clinics will need to be conducted over several days, ensure field teams are prepared to stay overnight (where security permits) at field locations instead of returning back to the office each day;
- Follow up community meetings with a mobile clinic on the same or

next day to maintain beneficiary interest and to minimise the travel of beneficiaries to the meeting point; and

- Consider establishing lightly equipped, temporary satellite offices (in addition to any ICLA regional offices) that can make use of another organisation's infrastructure. In West Nile, for example, satellite offices are located within UNHCR compounds under a right-of-use agreement. These satellite offices serve as hubs for field teams, for storage and various ad hoc office work.

7.6.1 Reaching female beneficiaries

Most ICLA projects specify female beneficiaries as one of their primary target groups. Through gender disaggregated data in an ICLA database, determining the numbers of female beneficiaries reached and counting the services provided to them is simple. The challenge is reaching an increased number of female beneficiaries such that they are a primary recipient of quality ICLA services in contexts where, for example, women may be discouraged from leaving the home or village or from engaging in organised community activities or any kind of informational activities. Women may also be reluctant to speak out on their needs due to cultural taboos or out of fear.

Strategies which have been successfully employed by ICLA projects to date to reach women include:

- Visit camps, communities or villages, rather than expecting beneficiaries to come to an ICLA office;
- Train ICLA staff in strategies to prevent men dominating community meetings;
- Consider that women may be prevented from taking part in activities outside their homes and design activities accordingly;
- Retain of a high number of qualified female staff and at the very least, 1 female member in each field team;
- **Ask them!!**– The women of a community will have the best are going to have the best information on how to reach women;⁵⁹
- Allow more time in communities for relationship and trust building;
- Work through established women's networks;
- Conduct activities in locations and times that best suit women.

Example: Kathmandu is a very dense city. Most female IDPs living in Kathmandu originate from villages far from the city and do not know it well. One community meeting was held in a location known to Kathmandu locals but otherwise difficult to find. Several IDP women tried to attend this meeting but went home after failing to find the building.

59) Although not gender-specific, the evaluation of the Burundi report also noted low rates of walk-in clients., partly due to opening times that were not convenient to beneficiaries.

7.7 Communications Tools

Below is a non-exhaustive list of internal and external communications tools that should be utilised, as appropriate, by ICLA programmes.

Communication item	Audience	Comments, Tips, Examples
File notes	Internal	Notes must be taken in all meetings (particularly client meetings) and systematically filed. File notes should include the date and time of the meeting, the persons present, all topics discussed, any advice provided and any instructions given by the client to the ICLA staff member.
Meeting Minutes	Internal	<p>Notes should be taken in all meetings, but <u>must</u> be taken in meetings with clients (see above) and with civil and military authorities.</p> <p>When issues are raised, agreements reached, etc., ICLA staff should offer to take minutes (or to make a “summary” if official minutes are unwelcome or will hamper frank discussion).</p> <p>The establishment of an accurate and complete paper trail is essential for holding authorities accountable to commitments made and to ensure consistency in the programme despite inevitable changes in ICLA staff.</p>
Communication tools for ICLA staff	Internal	<p>To enhance service provision, ICLA programmes have developed a number of communication tools to assist national staff, including:</p> <p>Scripted opening statements by ICLA staff during client interviews to ensure that staff accurately explain the objective of the project, the relationship of the project to any key partners, the role of ICLA in case follow up and the services to be expected from ICLA;</p> <p>Client interview check lists to ensure that staff cover all relevant issues during interviews for certain categories of cases ;</p> <p>Summary sheets which have been developed for complex topics, such as a new IDP law or policy. These have been provided to field staff to improve the accuracy and consistency of the messages provided to beneficiaries on the relevant topics; and</p> <p>Posters to ensure more effective and standardised communication at community meetings.</p>

Pamphlets	External: beneficiaries, local NGOs, NRC contacts, Government representatives, etc	<p>Pamphlets are especially useful for setting out details of processes and procedures (such as information needed to register a land transaction) which cannot easily be communicated through radio messages, drama etc.</p> <p>The level of the language in pamphlets will depend on the audience but, generally, it should be simple and concise. Do not include jargon, abbreviations, etc.</p>
Posters/written announcements	External: target beneficiaries, to be posted in public places.	<p>Posters and public announcements can be effective in persuading people to demand their rights, press for assistance and information from official offices.</p> <p>In conflict/post-conflict settings, persons in power may profit from chaos and not be interested in making procedures transparent and will not favour steps that make their official responsibilities known, lest they be held accountable.</p> <p>Posters (and radio announcements) also ensure that information is provided directly to target beneficiaries, rather than relying on community leaders or other intermediaries to relay this information.</p> <p>Example: The Azerbaijan evaluation report, while supporting – in theory - the project's strategy of utilizing teachers and municipal representatives to spread IDP information, noted the low impact of this approach in practice due to the lack of free time available to these persons to perform this role.</p> <p>Public communications can also help alert target groups to ICLA's existence in new project areas.</p> <p>Posters should use language (or pictures and diagrams) appropriate to the education level of the target audience. If information is not 'packaged' or communicated in an accessible manner, the message will not be received and understood!</p>

Handbooks, Guides, Research papers	<p>External and internal: local NGOs, local to central level Government authorities; ICLA teams for advocacy, training and further research purposes; staff of other NRC core activities</p>	<p>To provide more comprehensive information on ICLA issues, including with a view to passing on the benefit of ICLA's accumulated knowledge to other relevant actors for capacity building and/or sustainability purposes.</p> <p>Example 1: information acquired by ICLA Nepal on obtaining civil documents through research and practice was useful for a whole range of local NGOs to assist their own beneficiaries (such as abandoned children). As a sustainability strategy, ICLA produced a short handbook of lessons learned for other service providers.</p> <p>Example 2: The Pakistan project conducted research on key issues regarding the rights of earthquake affectees. This research was used as a basis for proposals for amendments in applicable laws and Government policies. The research was also used as the basis of Articles for sharing knowledge acquired through the implementation of the project with NGOs, international organisations and other stakeholders, thus creating an impact in the project area beyond NRC's immediate target group.</p> <p>The research work was also used as a basis for information materials, trainings and subsequent ICLA proposals.</p>
Newsletters	<p>External: beneficiaries, Government authorities</p>	<p>Many local, civil society organisations produce newsletters. These may be an effective communication tool in some contexts, such as to provide more detailed information on services provided or an organisation's achievements.</p> <p>However, depending on their complexity, newsletters can be very time consuming to produce. Prior to doing so, assess carefully who will read this document (will it simply gather dust on the shelves of local NGOs?) and its likely impact.</p>
Radio	<p>External: useful for announcing key messages, events organised by ICLA, etc.</p>	<p>Potentially very effective in spreading information rapidly and to a wide audience, but impact can be difficult to monitor.</p> <p>Keep wording simple and slogan-like. Ensure you broadcast over stations which can be accessed in target areas.</p>

Film	Potentially all stakeholders	<p>ICLA has some experience from Sudan in using film to inform refugees and IDPs as to conditions in areas of return.</p> <p>Prior to developing a film, consider whether it will be an appropriate method of communication: are beneficiaries accustomed to receiving information through TV/film? How long and costly will it be to produce the film? Will the information contained in the film still be relevant by the time it is complete? What facilities are required to make the film and how/where will it be displayed?</p> <p>Film was widely used in lieu of 'go and see' visits and for community reconciliation purposes in the Balkans but may not be suitable in other contexts.</p>
Drama	External: beneficiaries, local authorities	<p>Drama can be an excellent way of communicating a message in a very public, transparent and entertaining way. But, you need to carefully consider what the activity is intended to achieve and how impact may be assessed.</p> <p>If local drama groups can be used, the perception that 'outsiders' are delivering a message is also avoided. Ensure that scripts are carefully reviewed prior to presentation so that ICLA's messages are accurately conveyed. Ensure that publicly accessible sites are chosen.</p>
Photographs	Internal and external: use pictures to provide more accurate information in presentations, pamphlets, donor reports, internet stories, internal reports, etc.	<p>ICLA project staff should have digital cameras and staff should be trained to use them (and some basics about composition, and what makes a good photo).</p> <p>Where camera permits are required they must be acquired.</p> <p>When taking photos, pay attention to the data collection and use rules set out in Section 7.5.2. See also UNICEF's, 'Ethical Guidelines: Principles for Ethical Reporting on Children'.</p>

7.8 ICLA in natural disasters

“... natural hazards by themselves do not cause disasters; it is the combination of an exposed, vulnerable and ill-prepared population or community with a hazard event that results in a disaster”.⁶⁰

Natural disasters, particularly sudden, high impact disasters, such as tsunamis and major earthquakes, have the potential to exacerbate existing conflicts. Disasters also may include those caused by environmental degradation, climate change and slow-onset disasters, such as desertification. Whilst some commentators describe disaster situations as providing positive opportunities for bringing people together across divisions, others highlight the capacity of such disasters to enhance existing conflict. The latter view emphasises the increased scarcity of resources after disasters, the simultaneous, increased need and the inevitable tensions this creates.⁶¹ Conflict may also be exacerbated by one party to the conflict taking advantage of chaotic circumstances for its own ends, for example, increased attacks by the LTTE in the post-tsunami period while Government attention was focussed on reconstruction. Mass reconstruction efforts by governments, military and the international humanitarian actors also have the potential to weaken community participation during the recovery phase.⁶²

The most pressing protection needs in disaster situations generally relate to food, shelter, health care and livelihoods. These are economic, social and cultural rights and sometimes not enforceable under national laws.⁶³ Irrespective of this, in the case of Sri Lanka and Pakistan, governments implemented a host of schemes to meet the food, shelter and livelihood needs of the natural disaster IDPs. Ironically, in Sri Lanka, the same government that is regularly accused of violating constitutionally guaranteed civil and political rights in the context of conflict, showed remarkable willingness to provide for victims after the tsunami.

In the aftermath of the 2004 tsunami, naturally there was increased international focus on the prevention of and responses to disasters. Importantly, the Hyogo Framework for Action 2005-2015 recognised that:

“States have the primary responsibility to protect the people and property on their territory from hazards and ... to give high priority to disaster risk reduction in national policy, consistent with their capacities and resources available to them.”⁶⁴

Significantly, there was also increased attention to addressing the needs of those affected by natural disasters using a rights-based approach. As a result, the Operational Guidelines on Protecting Persons in Natural Disasters and manual to accompany the Guidelines have been developed.⁶⁵ These guidelines apply to all persons affected by natural disaster, whether displaced or not.⁶⁶

60) Internal Displacement Monitoring Centre (Vikram Kolmannskog), ‘Displaced by disaster – a protection study’, draft, p 8 (see Appendix 3)

61) Brancati, D., ‘Political Aftershocks: the impact of earthquakes on intrastate conflict’, *Journal of Conflict Relations*, vol 51 (5), 2007, pp 715-743

62) Brancati, D., ‘Political Aftershocks: the impact of earthquakes on intrastate conflict’, *Journal of Conflict Relations*, vol 51 (5), 2007, pp 715-743

63) Ibid

64) For example, the Pakistan Constitution lists these rights as ‘Principles of Policy’.

65) Hyogo Framework for Action 2005-2015, World Conference on Disaster Reduction (2 February 2005) UN Doc. A/CONF.20/L.3/Rev.1, para 4.

66) For more information, see Internal Displacement Monitoring Centre (Vikram Kolmannskog), ‘Displaced by disaster – a protection study’ (see Appendix 3)

7.8.1 ICLA's role in natural disasters

Although NRC generally works in conflict situations, on a number of occasions the NRC Board has agreed to operations delivering assistance to victims of natural disasters where NRC is already present in the country (such as in Sri Lanka and Pakistan).

As in conflict situations, it is difficult for a person without prior experience of disasters to comprehend the significance of legal aid in the rehabilitation process. Beneficiaries, governments and donors may not value legal aid in the same way they value food, shelter or health care. In Pakistan, for example, the first donor of the earthquake operation spent significant amount of time seeking justification and relevance of legal aid in earthquake rehabilitation. The donor divided the proposed funding amount by the number of proposed beneficiaries and was concerned that ICLA's legal aid project would cost more money per beneficiary than a NFI distribution project. The donor was also not convinced that the number of documentation and administrative cases projected in the draft project proposal was attainable. Initially, local government bodies in Pakistan also expressed their reservations against ICLA in its initial stage. However, the disaster programmes ICLA has run to date (which focused on civil documentation related to compensation and rehabilitation schemes) have demonstrated that there is a key role for ICLA to play in disaster contexts.

ICLA's interventions in natural disasters so far have been restricted to countries in which NRC already had an established presence, that is, Sri Lanka (after the Tsunami) and Pakistan (after the 2005 earthquake and the 2007 flooding in Sindh-Baluchistan). A shared feature of these countries was the presence of relatively strong legal and registry systems, providing clear scope for ICLA in documentation and legal representation. In these countries, similarities in government responses were also present (e.g. special agencies were formed to coordinate rehabilitation programmes) as disaster responses were largely donor driven. Accordingly, ICLA should anticipate similar responses to future, major disasters in which the usual, large donors are involved. Corruption allegations against the agencies involved in reconstruction schemes should also be anticipated.

7.8.2 Examples of ICLA in natural disasters

The natural disaster contexts in which ICLA has operated have all involved major housing compensation, reconstruction and other rehabilitation schemes. These schemes usually require beneficiaries to produce identity, property and other documentation to establish their eligibility for benefits. In order to access compensation, beneficiaries may also need to undertake a host of administrative acts, such as opening a bank account, filling out various forms, obtaining certification from different authorities etc. In some cases, beneficiaries are also in need of legal representation for disputes which arise out of the disaster context, such as succession issues, title disputes and partition.

Information

Disaster situations are extremely time-sensitive as Government sponsored schemes are usually introduced rapidly. Due to the lack of capacity of the government and/or flaw in the design of the schemes, many displaced persons do not receive proper information about such schemes and as a result, may be excluded from receiving benefits.



Example: In the Pakistan earthquake project, ICLA created FAQs in local languages on the various rehabilitation schemes and disseminated them in the course of its normal mobile operations. To avoid confusion, FAQs were endorsed, wherever possible, by the government.

Counselling and legal assistance

ICLA has assisted IDPs who claimed that their property has not been assessed or was assessed in the wrong category, who needed assistance in opening a bank account or accessing grievance redress mechanisms related to housing compensation.



Example: ICLA Kalmunai office (Sri Lanka) received three cases where the technical assessment for housing compensation was not carried on in accordance with the procedure. In short, the clients were asked to sign blank forms with incorrect details subsequently entered by the authorities. ICLA brought all three cases to the High Court. Ultimately, the issue was resolved out of court, with the district administration agreeing to provide a reassessment.

Capacity building

Capacity building of local government and elected representatives on applicable law is also vital for the rehabilitation process. Natural disaster areas are likely to see changes in both laws and administrative procedures. Existing government mechanisms are usually not efficient enough to bring these changes to the notice of the relevant government officials and elected representatives. In Sri Lanka, for example, changes in law were sent through telegraphs to local authorities. However, local government staff usually did not understand the full implication of the changes from these messages.

ICLA has been involved in building the capacity of local authorities and registry offices on an *ad hoc* basis. Capacity building may imply the supply of tangible assets including equipment which ICLA has not been inclined to do in the past. But, if “ICLA’s business is to get out of business”, this can only be successfully achieved once local authorities or other organisations are capable enough to handle the relevant issues. In disaster contexts to date, this has been particularly relevant to the handling of civil documentation.

On the other hand, this approach should always be considered as a last resort for delivering assistance since it can exacerbate an undesirable culture of dependency. Always ask the question: How sustainable is this? Can the Civil Registry office buy canon toner without funding?



Example: Building the capacity of NGOs in Sri Lanka

In the Batticaloa area, ICLA trained NGO field officers (including Save the Children staff) and probation officers on the basic legal and guardianship needs of orphaned children. Training participants confirmed that they had never previously asked questions related to the property and assets of the orphans' parents, nor the current status of those assets. Based on this feedback, ICLA developed a two-page questionnaire for use by Save the Children field staff and district probation officers in visits to orphans.



Example: Building the capacity of civil registries in Sri Lanka

In eastern Sri Lanka, ICLA managed to equip 15 registry – and land offices of Batticaloa and Ampara Districts. Immediately after opening ICLA's offices in these districts, ICLA discovered that the low rate of documentation case resolution was due to the registry offices' lack of capacity in searching the archives and producing the required documents. Lack of a photocopy machine and a fax machine were determined to be the main impediments and thus were provided by ICLA. The registry offices also requested computers but as the documentation process was carried out manually, ICLA was not satisfied that these were necessary.

A lack of human resources and the disorganized state of the archive books were also significant factors for the delay in document production. The recruitment of new registry clerks and proper organization of the archives were required to expedite the process. Without project objectives on capacity building being included in the relevant project documents and without the required planning and budget it was not, however, possible for ICLA at the field level to address these issues.

For more details on capacity building in ICLA, see also **Section 6.6**.

7.8.3 Lessons learned through ICLA disaster work

Programme Design

- Reconsider the timing of ICLA interventions: the earliest ICLA intervention made in natural disasters to date was in Sindh-Beluchistan, Pakistan. ICLA commenced fully fledged operations on the 33rd day after the flood, at least 3 months sooner than in any other ICLA disaster programme. This was, however, not quick enough for some as the assessment for distribution of cash compensation to flood victims started before ICLA arrived and a significant portion of flood affectees were excluded from the scheme because they could not to produce the

necessary documents. Therefore, if significant time will be required for the recruitment and set up of ICLA offices, a small ICLA unit, perhaps for the purposes of documentation only, could be factored in NRC's emergency and camp management operations.

- Start with a baseline study covering, inter alia, the post disaster capacity of registry offices and the expected volume of documentation requests.
- Make a decision on documentation fees coverage by ICLA. Even if the government is willing to waive the usual documentation fees, it will still take time for this decision to be made and implemented. Make the necessary budget adjustments.
- Decide if ICLA should carry out capacity building activities for registry offices (or other relevant authorities). If so, factor in the costs of required equipment, etc. Give preferences to basket money rather than money tied to any particular activity. Ensure there is flexibility in the budget and proposal, as new information or changes in the operating environment (such as the departure of particularly cooperative officials) may require the capacity building activity to change course.
- Include some tentative indicators for exit, particularly with respect to documentation, e.g. registry offices regaining normalcy, documentation requests reduced to a certain level, major government schemes reaching maturity, certain training and capacity building activities carried on, etc.

Implementation

- Without undermining the mobile visit approach, consider opening small legal aid offices⁶⁷ or satellite offices for walk-in clients close to local government offices.
- Considering organizing a 'one stop documentation shop' if relevant authorities are prepared to cooperate and issue documents from a single location.
- Consider organising joint mobile visits with relevant issuing authorities.
- Consider in-house M&E capacity. In natural disasters, base lines move quite rapidly as government schemes mature. On-going M&E will help keep ICLA focused.
- Seriously consider establishing a research wing. If funding is a problem, nominate at least one existing staff member for research.

Advocacy

- Consider advocating for the waiver of documentation fees for the people affected by the disaster.

67) Security concerns often preclude NRC from opening too many outlets. However, as natural disaster programs may not encounter the same security threats, the possibility of opening small legal aid cells should be actively considered. Based on NRC experiences to date, productivity of these small legal aid centres can be significantly higher than the mobile approach.

- If the disaster caused people to disappear, advocate for amendment in the law of evidence to introduce a “presumption of death” in a shorter period of time.⁶⁸
- If the disaster causes orphans, advocate for the provisioning of a foster care mechanism, unless a similar arrangement exists.
- If the disaster causes IDPs to occupy government or private land and buildings, advocate for their right to due process during eviction.
- If the disaster causes communities living in hazardous zones to be relocated, advocate for their economic, social and cultural rights.⁶⁹

Training and Awareness Raising

- Training programmes for local authority staff, local government office bearers, civil society representatives and NGO workers can add significant value in the rehabilitation process. ICLA's documentation and administrative assistance works are relatively straight forward. Transfer of knowledge to the responsible local bodies and personnel will increase beneficiaries' access to these services.
- Initiate training programmes as soon as possible to get maximum output from the knowledge transferred. In the Pakistan/Afghanistan earthquake programmes, ICLA introduced training programmes two and half years after the earthquake. This was at least two years late.
- Consider awareness raising programmes on urgent protection issues.⁷⁰

➔ Further resources:

ALNAP, 'Responding to earthquakes 2008 - Learning from earthquake relief and recovery operations',

IDLO, Manual on International Law and Standards Applicable in Natural Disaster Situations

Future floods of refugees: A comment on climate change, conflict and forced migration, NRC report

Internal Displacement Monitoring Centre , 'Displaced by disaster – a protection study'

NRC position paper on climate change, the environment and the displacement

Brancati, D., 'Political Aftershocks: the impact of earthquakes on intrastate conflict', Journal of Conflict Relations, vol 51(5), 2007

Hyogo Framework for Action 2005-2015, World Conference on Disaster Reduction (2 February 2005) UN Doc. A/CONF.20/L.3/Rev.1, para 4


68) For example, the Tsunami (Special Provision) Act, passed in June 2005, makes a presumption of death if the person in concern was residing in a tsunami affected area at the time of tsunami and was not seen or heard from for a period of at least 6 months following tsunami. Previously, a presumption of death would only be made after 7 years and a death certificate could not be issued until that time. This created a deadlock for IDP's whose entitlements were dependent on a death certificate, including accessing money left in the bank by the deceased, his/her pension, insurance, housing compensation, succession, inheritance, etc.

69) Take the Tsunami Buffer Zone as an example. Fishing communities moved to mainland areas were likely to lose their livelihoods.

70) For example, in some Sri Lankan project districts, ICLA ran GBV awareness raising program for IDP community leaders as, after the tsunami, domestic violence against women and children was in the rise. For more details, see section 4.3 on GBV above.

7.9 Cross-border programming

7.9.1 Benefits and challenges of cross-border programming

 *"When working with refugees, it should always be primarily considered to implement a clear cross-border operational structure based primarily on the displacement region and not the national border – already at time of operational start-up."*

West Nile, Uganda, donor report, 2008

To date, ICLA has worked across national borders in Uganda/Sudan, Afghanistan/Pakistan, Burundi/DR Congo and Colombia. Working in this manner, ICLA is able to provide better services to beneficiaries, including vastly improving ICLA's first hand access to information in return districts. In the Pakistan/Afghanistan programme, for example, it was evident that most Afghanis did not want to return until they could be assured access to land in their home areas. In this case, it would have been very difficult to facilitate returns without addressing issues on both sides of the borders. This advantage applies equally to programming across the axes of internal displacement (that is, implementing a programme both in areas of return and displacement within the one country, a classical example is Georgia/Abkhazia/South Ossetia).

Cross-border programming also presents numerous challenges and a strong word of caution has been issued by project managers involved in cross-border programmes: while there has been significant interest within NRC, UNHCR and amongst donors in cross-border programming, these will only be successful if carefully planned, including due consideration of the numerous practical issues likely to be incurred at the field level.

Practical hurdles to the smooth implementation of cross-border programmes include:

- the management of the two country programmes under different country directors, project directors and project managers;
- different donors for the two programmes, perhaps with different priorities;
- language, cultural and religious barriers between national staff members and local stakeholders;
- differences in the legal systems and government structures of the two countries; and
- conflicting interests among national governments i.e. the country of refuge wanting to repatriate refugees and the country of origin opposing return and reintegration.

These challenges may also apply to a lesser extent across internal axes displacement.

ICLA also needs to ensure that it is not promoting return as the optimal durable solution for beneficiaries simply because ICLA has a cross-border capability in place and is under pressure from donors and UN agencies. In this regard, ICLA programmes must give the highest consideration to the principle of dignified and voluntary return to avoid promoting forced returns.

7.9.2 Addressing the challenges of cross-border programming

If a cross-border approach is pursued, to address the challenges noted above, communication and coordination are key:

- Consider appointing at least one dedicated staff member on each side of the border, tasked with ensuring the two-way flow of information.
- Establish regular coordination meetings and mechanisms for sharing information from the commencement of cross-border activities.
- Give field staff the authority to communicate directly across borders, rather than directing all relevant information and requests through the programme management. This improves both efficiency and local ownership of the work.
- Encourage staff exchanges (either short or long term). Again, these motivate staff and increase understanding of the needs and challenges on both sides of the border.



"In the beginning, there was a lot of mistrust between the Afghanistan and Pakistan teams and a lack of understanding about why and how they were meant to work together. In 2007, visits from Afghanistan to Pakistan and vice versa were organised ... It was important to get people to meet each other, visit each others' contexts and forge real connections ... Often the Afghans and Pakistanis didn't understand each other's laws which meant they approached issues from very different directions. We needed to nurture understanding in order to nurture positive cooperation."

Afghanistan/Pakistan Project Managers, ICLA Seminar, 2008

Other practical tips for enhancing the benefits and reducing the challenges of cross-border programming are as follows:

- Use common terminology and definitions in the two project areas in all project proposals (including use common terminology in project databases to facilitate the consistent recording, reporting and analysis of project data, including using a single case number for each cross-border client).
- Use common formats (including client registration and referral forms).

7.10 Building partnerships

In the chapter on Partners in Cooperation, the NRC Policy Paper states the following:

“Refugees and IDPs are not only the NRC’s target group, but also its closest partners in cooperation. The activities of the NRC shall be based on respect for the culture and customs of the refugee groups, and shall acknowledge the fact that it is these groups themselves that are best qualified to define their own situation and determine how to improve it. Refugees and IDPs shall therefore insofar as possible take active part in the planning and implementation of measures. Such measures shall be based on, and shall be in support of, the refugees’ own activities to improve their situation [...]

Whenever possible, the NRC shall cooperate with local organisations, and in this way improve the capacity of these organisations to assist and protect the rights of refugees and IDPs. Such cooperation shall be initiated and developed with a view to ensuring that programmes and efforts can be taken over and continued by local groups.

The NRC shall establish active and inclusive relations with the central and local authorities in the countries of operation, and base its activities on appropriate, pre-existing structures where this is possible. The NRC shall conduct an active dialogue with the authorities with a view to promoting the rights of refugees and IDPs, and shall if necessary exert pressure on parties that indicate a lack of willingness to participate in these endeavours..”

Despite the broad framework provided by the policy paper, the ICLA Policy adopts a rather narrow approach to partnerships. This is usually justified on the basis that there is a need for an international presence to ensure maximum impartiality and independence or where NRC wishes to exercise a high level of control over the programme. The ICLA Policy states:

“Generally, NRC will not use implementing partners to implement ICLA projects, but may cooperate with other partners where principles of neutrality and other NRC values are maintained. For example, NRC will always work closely with the United Nations High Commissioner for Refugees (UNHCR) in the field and support its protection mandate and impact. Though there is a need to strengthen local capacity, co-operation with local NGOs and institutions will be considered carefully, as they may not be (or may not be perceived by the target group to be) neutral in the conflict.”

However, the recently adopted protection and gender policies are clear on the need for NRC programmes to establish cooperation with partners. The protection policy states that *“NRC will prioritise formal cooperation with other likeminded partners where they clearly demonstrate an equal commit-*

ment to the humanitarian principles". The Gender policy states that partnerships should, in particular, be increased with "community groups and NGOs working to strengthen women's participation and rights".

7.10.1 Strategic partners

Despite the need to maintain an image of impartiality and independence ICLA will always need to establish strategic partnerships with beneficiaries and other stakeholders to reach its objectives. This cooperation may relate to the full range of issues being addressed by an ICLA programme, its methods and activities. Cooperation may be formalised through, for example, structured joint activities or sharing of information described in a memorandum of understanding (MOU) or other similar document (a sample is contained in the Appendix 5 to this handbook).

Strategic cooperation may happen at local, national or international level. Locally, ICLA programmes will need to be accepted by communities and their leaders – whether formal or customary – if they want to have any chances of success, especially bearing in mind the need to explain the benefit of legal work in many country programme contexts. At national level, partnering with relevant ministries and bodies should be considered if impartiality can be maintained and the objectives of the programme are advanced. Partnerships with international actors, at country level or in international networks and fora, are rather common.

➔ Further resources:

Strategic Partnership NRC/UNHCR (see Appendix 4)

7.10.2 Implementing partners

The ICLA policy states that ICLA projects will generally be implemented directly by NRC. However, deviations from this rule are possible, depending on country context, such as the presence of capable domestic organisations. Within ICLA, practice in using implementing partners has been mixed. In most countries, NRC implements ICLA programmes directly. In Colombia and oPt, ICLA is implemented directly and through partners, while in Georgia it is implemented solely through partners since 2008 (find an example of an implementing partner agreement in Appendix 5).

ICLA managers that wish to engage with implementing partners, can use the following check-list to guide their engagement with implementing partners until a formal policy outlining the different approaches possible in the organisation is adopted.

Policy and performance of the organisation:

- The compatibility of its values with NRC's own values
- The compatibility of its strategy and priorities with NRC's mandate
- Its areas of expertise
- Its capacity to analyse a specific context

- The promotion of equal opportunities for men and women
- Its approach to cultural conflicts
- Its proven ability to implement according to plans and priorities
- Its capacity to assess strengths and weaknesses and to combine a variety of approaches
- Its network affiliation
- Its capacity to identify relevant actors at various levels, relate to and coordinate its activities with other actors
- Its unity and capacity to transfer knowledge between all levels in the organisation

Financial, technical and administrative considerations:

- Formal registration
- No criminal record
- Transparency
- Its real representation (of members or of external actors)
- Its capacity to manage financial resources, elaborate proposals, and to manage activities and personnel
- Its capacity to balance the management of service delivery and political agendas.

7.11 Programme Monitoring

7.11.1 Why is constant monitoring essential?

ICLA is a multi-faceted, complex project. It uses a range of methods and activities and encompasses a large number of issues. Due to these features, ICLA has the potential to become unwieldy and difficult to manage. Accordingly, in order to remain responsive to the needs of beneficiaries and relevant in the programme context, the programme needs to be constantly re-assessed and re-focussed to keep pace with changes in the programme area's status.

SIDA defines monitoring as *“the continuous follow-up of activities and results in relation to pre-set targets and objectives. Beneficiary monitoring measures the extent to which intended beneficiaries have access to outputs and are able to put them to good use”*.

In Sri Lanka, for example, the ICLA programme commenced when a ceasefire had been signed and there were high hopes for lasting peace. Subsequently, the country was devastated by natural disaster and the conflict reignited. The ICLA programme needed to respond to these dramatic changes in the security, political and legal environment and the corresponding needs of ICLA's beneficiaries. Additionally, the evaluation of the Sri Lanka ICLA programme highlighted the need to acknowledge the varying status of different programme areas within the country and the need to respond to such regional variations.

ICLA Project Managers need to be aware of their role to maintain the relevance of the project in such a dynamic context and be prepared to change the

programme design, activities, style of implementation, etc, to respond to the programme environment.

Constant monitoring of the project and the periodic re-assessment of beneficiaries needs will assist project managers look critically at the programme and re-design or re-focus it to the extent required and possible.

7.11.2 What should be monitored?

Monitoring should enable the programme manager to make a periodic assessment of the status of programme implementation. The programme manager should aim at answering the following questions.

- To what extent have the specific objectives been achieved?
- Did the programme reach its target group(s)?
- What has happened as the result of the intervention?
- Have there been any changes in the context that require revisiting the objectives of the programme?
- What real difference has the programme made to the beneficiaries?
- Did the programme contribute towards the return, rehabilitation and reintegration of the target group?

The **monitoring of ICLA programmes** should also consider the following:

- The quality and results of legal assistance being provided
- The responsiveness of lawyers to the needs and sensitivities of their clients
- The quality and results of the information being provided – clear, easy to understand, relevant and useful?
- The quality and results of referrals being made – are clients receiving services from third parties?
- Whether client files are being properly maintained and information is being kept confidential
- What would have happened if ICLA had not been implemented; would the target group lack the ability to solve their legal and administrative issues by other means?
- How efficient is the database? How much staff time is spent on data entry? How quickly is the data being entered? How and to what extent is the data being used at the field level and country office?
- How large is the caseload? What is the rate of progress between new cases and cases closed?
- How/where will case load be transferred upon exit? What plans are in place for this and other components of the exit strategy?
- Are resources being spent according to plans?

7.11.3 How to monitor?

Methods of monitoring ICLA programmes may include:

- Reviews of all programme and related documents
- Pre-defined indicators, data collected continuously with periodic analysis.
- Critical reviews of field reports (project managers may require that

client stories (or case studies) demonstrating the impact of ICLA's services should be included as a regular component of field reports

- Critical reviews of programme data (by each programme area and at the country programme level, as appropriate)
- Key informant interviews of community members and local representatives
- Semi-structured focus group discussions with community members and leaders (male and female separately if this will enable women to express themselves more freely)
- Discussions with relevant local (and if applicable, central) government and non-government stakeholders
- Detailed discussions with ICLA staff from whom information is not normally received via established reporting structures
- Direct observation through site visits
- Recruit a Monitoring and Evaluation Office to facilitate the monitoring process
- Establish quarterly planning sessions, to seek input from national staff
- Conduct a full reflection process at least once per year. Remember to always keep one eye on the exit strategy.



Example: Uganda (West Nile)/South Sudan

In 2007, NRC ICLA in South Sudan conducted a survey exercise with ICLA WN and North Sudan. 528 individuals were interviewed with the goal of measuring the level to which the NRC information activities reached the beneficiaries. Approximately 60% of beneficiaries within the main target group were found to be regularly receiving information via the ICLA WN project and three of its dissemination methods which all are adequately effective.

7.11.4 Monitoring and Evaluation staff

Some ICLA programmes have employed a national Monitoring and Evaluation Officer. A high level of critical analysis of the M&E Officer is also required, who is, in effect, acting as an advisor or alternate source of information for programme management. Careful assessment of the quality of information provided by an M&E Officer is also recommended.

7.12 The Core Activity Database

The Core Activity Database (CAD) is a programme management tool that will allow NRC to measure the effectiveness, efficiency and outcome of its programmes. For the time being, CAD allows programmes to report output statistics against standard global indicators and to track financial information. It is envisaged that in the course of 2009, CAD will be upgraded with new functions enabling NRC to measure the quality and outcome of its programmes.

The CAD ICLA Definitions and User Notes are reproduced in Appendix 2 and they will not be repeated in detail here. However, the main features to remember are:

- For the time being CAD main function is to report statistics and financial information. Financial information is linked to the Agresso system and is updated automatically.
- Statistics are reported every month against a standard Data Capture Sheet.
- CAD allows programmes to report their statistics per single project or accumulated under a single project where projects have a common group of beneficiaries. Programme coordinators in HO are responsible to update the Agresso system to match field preferences for reporting projects.
- Given many possible variations of ICLA programmes depending on the context of operation (i.e. more or less developed rule of law institutions, prevalence of certain topics or methods, etc) the Data Capture Sheet is designed to allow every programme to report its statistics. It is important to remember that not every programme needs to report statistics to every indicator.
- The ICLA Data Capture Sheet is designed to gather statistics about both, beneficiaries and services. The main rationale behind this is that a single beneficiary could receive several services from NRC.
- The ICLA Data Capture Sheet disaggregates statistics by
 - beneficiaries disaggregated by status;
 - methods (information, counseling, capacity building and legal assistance);
 - type of service: information on durable solutions, training on domestic law, legal assistance in HLP, Civil documentation, etc.
- Given the additional complexity of the legal assistance method statistics are more sophisticated:
 - Opened or closed cases (for legal assistance only);
 - Type of legal issue (HLP, family law, civil documentation, etc);
 - Type of jurisdiction (statutory courts, customary authorities, etc)
 - Outcome of the case (successful, unsuccessful and with no result). This is the only qualitative element in the data capture sheet.

7.13 Evaluation

NRC's Evaluation Policy (March 2007) utilises the Active Learning Network for Accountability and Performance in Humanitarian Action's (ALNAP) definition of evaluation, that is:

"A systematic and impartial examination of humanitarian action intended to draw lessons to improve policy and practice and enhance accountability".

The Evaluation Policy further states that:

“Evaluation is one component of NRC’s broader performance review framework, which also includes activities such as inspection (field visits), annual audit and monitoring.”

The primary goals of an evaluation are described as:

- “A retrospective review for validation and control, i.e. getting an independent verification of effectiveness, impact, relevance and sustainability of the activity performed;
- A more future-oriented review aimed at learning and administration, i.e. facilitating better decisions and developing better tools to work with current or new activities”.

The Evaluation Policy also sets out the types and timings of evaluations to be conducted by NRC and that the key items to be evaluated are:

- Achievement of NRC’s mandate/protection/durable solutions
- Efficiency
- Effectiveness
- Coordination
- Coverage
- Impact
- Relevance/appropriateness
- Coherence
- Connectedness/Sustainability

The brief Evaluation Policy is complimented by the considerably more detailed NRC Evaluation Handbook (November 2007), which provides more details on the planning and conduct of an evaluation and using the results of evaluations. The Evaluation Handbook also elaborates on the purposes and types of evaluations.

For the purposes of ICLA field staff, the most important aspect of evaluations is to ensure that learning from the evaluation process is reflected in other ICLA programmes. To this end, it is highly recommended that the existing evaluations of ICLA programmes (available on the intranet under ‘Governance’ and ‘Evaluations’) are reviewed.

To date, NRC has evaluated four ICLA programmes: Burundi, Sri Lanka, Azerbaijan and Afghanistan. Donors have also commissioned evaluations of ICLA programmes: Pakistan/earthquake, the Civil Rights Project in the Balkans and possibly others. Country programmes have also commissioned many internal reviews.

➔ Further resources:
NRC Evaluation Policy

NRC Evaluation Handbook

SIDA, 'Looking Back, Moving Forward - Sida Evaluation Manual'

PART 8 – ICLA OPERATIONS AND ADMINISTRATION

Reference should be made to the NRC Start-Up Handbook (available on the NRC intranet) for all general NRC administrative issues and routines. The information contained in the NRC Start-Up Handbook, the specific Sections captured here and in other NRC administrative documents will be useful throughout the life of the programme and not only at the start phase.

8.1 Funding

The majority of NRC's funding has traditionally come from the Norwegian Ministry of Foreign Affairs (NMFA). To diversify funding, NRC has set a target of 50% funding from outside Norway. In 2008, NMFA provided slightly more than 50% of NRC's funding, with ECHO, UNHCR and SIDA the next largest donors. Funding from the EC is increasing. The World Bank, UNDP and USAID have also financed ICLA programmes.

Internal NRC procedures have to be followed when approaching donors. The Project Application Toolkit on the intranet includes a flow chart explaining the different phases and how Head Office and the field complement each other. The procedures for applying for European Commission and other funding are presented in the Donor Handbook which is being developed at NRC HO and gradually being published on the intranet.

8.2 Human resources - international

The recruitment of international ICLA staff is the responsibility of the Recruitment Unit, in close cooperation with the relevant Country Director and the ICLA Adviser. One of NRC's expressed goals is to retain personnel who have already proved themselves within the organisation, thus persons with a history from positions in other NRC ICLA programmes are encouraged to apply.

Similarly, national staff from NRC programmes with proven proficiency and motivation to work in other NRC programme countries should be considered when establishing new ICLA programmes. Their knowledge of NRC routines in general, and ICLA specifically, can be essential for a smooth start-up. In 2008, a national professional trainee programme was piloted with over 20 national staff members deployed to other operations for a period of six months. The programme is expected to continue in 2009.



Lesson learned: For ICLA programs in countries where most legal staff does not speak the NRC operating language or where the applicable legal principles are very different from western systems, it can be a very time consuming process to develop a comprehensive understanding amongst the national and international staff of the law relevant to ICLA's key issues. This exercise may take many months and will generally need to be conducted simultaneously to building the capacity of national staff in basic skills, such as chairing meetings, minute taking and basic drafting. In such contexts, even where there is no need for international project coordinators to be placed in each field office, it is highly recommended to utilise additional international assistance for this exercise. Additional funding for such posts will need to be budgeted and project managers may need to 'sell' the need for this additional assistance to country directors and donors. To this end, the relatively complex nature of legal analysis and legal problem-solving and the fundamentality of this task to the success of an ICLA program should be highlighted.

See the Human Resources page on the NRC intranet, particularly for:

- advertisements for all international posts
- generic terms of reference for ICLA Project Managers and Coordinators ⁷¹
- NRC's Code of Conduct (for national and international staff)
- the Human Resources database (operational since September 2008). The database is intended as a resource for country programmes in need of professionals for assignments of up to six months. The CVs are systematized around five main categories of expertise: start-up and closure; training; monitoring and evaluation; information management; and thematic expertise i.e. HLP, gender, etc. Contact the Recruitment Section for access to the database.

8.3 Human resources - national

A key resource for the recruitment and management of national staff is the NRC Guidelines, National Staff (available on the NRC intranet). See also the NRC resources referred to in **Section 8.2 above**.

Recruitment of lawyers – lesson learned

Prior to the recruitment of national staff, position profiles should be carefully considered relative to the proposed programme activities. Although ICLA programmes generally contain a legal assistance component, **lawyers should not necessarily be recruited in the largest numbers, as the most senior staff members or in management roles**. Lawyers from both private and public law backgrounds often have no management experience, may not be accustomed to working in a team environment and may have difficulties adapting to NRC's style of work, despite their years of experience and education level.

National legislation on the role of lawyers and judges also needs to be taken into consideration. Not every country will allow lawyers working for NGOs to represent clients in court. ICLA has also experienced problems in employing judges who suddenly were forced to choose between rejoining the judiciary or losing their status. This resulted in significant numbers of ICLA professionals leaving the programme.

⁷¹) As of January 2009, the Recruitment page was still under development.

In addition to legal staff (such as lawyers, legal advisors, legal assistants and/or paralegals) and administrative staff (including drivers, logistics and security staff, etc), ICLA programmes have utilised national staff with a wide range of skills. Some examples are listed below.

Position title	Key responsibilities
Community Mobilisers or Information Counsellors	<ul style="list-style-type: none"> • Locating programme beneficiaries for the programme by networking with local NGOs and CBOs • Introducing the ICLA programme to communities through outreach meetings • Preparing and conducting community mobilisation, information dissemination, some trainings, etc. • Providing counselling and paralegal support for civil document requests • Provision of information and counselling on available social services • Referrals to services provided by other organisations and following up referrals <p>NB: the Uganda team structure was reorganized in 2008 to minimise distinctions between 'information' and 'legal' roles. More senior staff in an 'Information Counsellor' type role were to be replaced by "Field Officers", responsible for a team of both information and legal staff, with teams to be provided technical support by in-office advisors.</p>
Communications/ Information Assistants/ Officers	<ul style="list-style-type: none"> • Overall responsibility for media production, including preparing communication materials for information activities, e.g. newsletters, fact sheets and posters for community meetings and organising street drama, radio productions and supporting the preparation of workshops, seminars, etc. • Officers (often with a background in pedagogy, sociology or journalism) may be at the same level as a Legal Officer and be responsible for supervising a communications team.
Database Assistants/Officer	Data entry and generation of statistical reports from the ICLA database at the field and country office levels
Monitoring & Evaluation Officer	Conduct evaluation activities in field offices, e.g. 'customer satisfaction' surveys and provide recommendation for improved service delivery, etc.
Government Liaison Officer	Focal person for all interactions with Government authorities for relationship building and advocacy purposes.
Project Officers	Head of field offices (in lieu of a PC). Responsible for programme and administrative activities in field offices.
Research Officers	Responsible for conducting in-depth research on relevant laws and procedures or other issues affecting beneficiaries and preparing papers based on research findings.
Cross-Border Coordinator	<ul style="list-style-type: none"> • Hold regular cross-border meetings to ensure effective communication on all relevant issues, including the consistent treatment of cases and appropriate follow up. • Suggest and maintain necessary common tools, communications mechanisms, etc.

Gender balance in recruitment

In accordance with NRC's Gender Policy, a gender perspective should be mainstreamed into the recruitment process and capacity building of all staff. In particular, Project Managers should consider the team structures that s/he will establish and seek to include at least 1 female staff member in each team with client contact, including in any mobile outreach teams.



"Before we started the program, we visited dozens of local organisations. Everywhere we went, the staff was almost 100% male; we were told it wasn't possible to find sufficiently qualified women. When we commenced recruitment, we found around 85% of applicants were male but that most of the female applicants were very good, even if their CVs were not as well presented. Ultimately, we hired 50% female staff across the project. In no case were the female staff found to be less competent than their male colleagues. Our male staff said they were very proud of the gender balance in NRC."

Former Project Manager, Nepal, 2008



Example: Addressing gender problems in recruitment, Burundi

The mid-term evaluation of the Burundi programme strongly recommended that "NRC recruitment policies should, in addition to professional competency, take into account gender as part of its recruitment policy. Positive steps should be taken to address this imbalance by researching why so few women apply for such posts and to put in place measures to encourage such applications." The program subsequently established a policy of positive discrimination when several candidates were found "fit for the job", not only *ex aequo*. Measures, such as an explicit encouragement of female applicants on job advertisements and a gender-sensitive selection exercise, were implemented, but without effect as it was found that the many female law graduates will not apply for positions in the field. A trainee system for female students has now been planned to create a better base for gender balance in recruitment.

Recruitment of vulnerable persons

ICLA programmes should always 'practice what they preach' and consider recruiting representatives of the target group, wherever possible and appropriate. Target group representatives may be particularly useful in a community mobilization role. At a minimum, ICLA should ensure it recruits vulnerable persons for basic administrative posts for which a lack of formal education is not a major impediment.

Recruitment of interns

In certain contexts, it may be possible to employ students or recent graduates eager to work for an international organisation to gain experience. If well managed, these individuals can be extremely valuable staff members able to deliver quality and quantity (in many cases better than more senior legal

staff – see note on recruitment of lawyers above). This may be both an investment in the countries future legal capacities as well as in NRC, who is often affected by “brain drain” to the UN and other employers with more resources and career prospects.

➔ Further resources:

NRC Guidelines for National Staff

NRC Code of Conduct for Staff

Explanatory Notes to NRC’s Code of Conduct

Personnel Handbook for National Staff

HIV/AIDS Policy for Staff

Recruitment strategy

8.4 Budgets

Information on NRC’s financial procedures including budget tools is in the NRC Financial Handbook. When preparing a budget, consult the annual Budgeting and Planning Instructions and use that the newest version of the budgeting tool (P-info), see the NRC intranet.

In most ICLA programmes, the bulk of activities relate to the provision of services to beneficiaries. Therefore, the majority of costs will refer to human resources (staff salaries, insurance training costs, etc). Due to the high number of staff relative to the programme budget, costs of security and communications items (such as satellite phones) may also be high. These costs may appear higher than other organisations’ due to ICLA’s preference for self-implementation.

In addition to the expenses common to all programmes (rent, vehicles, fuel, safety items etc), ICLA-specific items may include those listed below.

4040	Project implementing costs partners	Although ICLA programmes will generally be implemented directly, most programmes will have some national partners, such as a local Bar Association or an NGO. Funds for the support of these partners (e.g. for capacity building (human and physical resources or joint advocacy activities) should be allocated here.
4240	Purchasing communication equipment	Include any communications equipment required, e.g. voice recorders for radio programming.
4390/ 4490	Purchasing miscellaneous materials/commodities or Purchasing miscellaneous emergency equipment	<p>Include workshops for project partners and other stakeholders.</p> <p>In the absence of NRC EFSD and shelter programmes and appropriate programmes by other organisations, ICLA may provide basic ad hoc/in kind support to beneficiaries.</p> <p><i>Example:</i> in one Nepal programme area (ECHO funded) it was not resource or time efficient to refer a child to a local partner to buy a school uniform so the child could attend school. Therefore, the costs of such basic items (approx \$6 each) were included here and paid directly by NRC.</p>
4500	Seminar costs	Include workshops for project partners and other stakeholders
4510	Teaching and awareness material	Include costs of developing and/or printing materials for internal and external workshops in addition to costs of printing awareness raising and advocacy materials, such as pamphlets and newsletters.
4520	Internal programme seminar costs (new account in 2009)	Include national and international staff training (in-country and internationally).
4590	Miscellaneous seminar/teaching expenses	Any film project costs should be allocated in this line.
4640	Legal assistance (new account in 2009)	Include costs of retaining specialised legal assistance (if necessary), costs of any government or related fees, e.g. for applying for and processing civil documents, court fees, etc.
6840	Newspapers, periodicals, books a.s.o.	Include costs of purchasing a basic legal library (if required).
6930	Internet	Ensure internet fees included are sufficient to cover costs of high speed connections if required for use of Agresso and/or an ICLA database.
7140	Travel expenses CO	Include costs of national and expatriate staff for regular work activities (particularly if project will be outreach-based) and travel to training events.
7300	Meeting costs	Regular ICLA staff meetings (different from account 4520).
7330	Image-building cost	If high donor visibility is required, costs of information materials (e.g. fact sheets, posters, ICLA documents (e.g. in-take forms)) with donor logos may be allocated here instead of in 4510 above.

A note on the handling of cash

If an ICLA project chooses not to pay for document processing fees or other administrative fees on behalf of its beneficiaries, these may need to be collected from beneficiaries. In this case:

- Receipts must be provided
- The money should be accounted for by staff members collecting and handed over to a dedicated admin/finance staff member
- The money should be placed in a cashbox as soon as possible (not in the staff member's pocket!).

Other issues relating to cash for Programme Managers to consider will be:

- How will the money be booked by ICLA?
- What will happen if a client's application is not successful? Will the money be repaid by ICLA? If this is a likely scenario, the ICLA could choose to collect fees from a client only upon the delivery of a document. Again, any anticipated shortfall needs to be budgeted.

8.5 Logistics

All practical issues, e.g. office space, communications equipment, vehicles, etc. are the responsibility of the country office logistician or programme support. See the NRC Start-up Handbook for more details.

When planning programme implementation, keep a running dialogue related to all logistics issues – and start as early as possible. Likewise, if there are plans to hire more ICLA staff or add more field locations, convey your logistics needs as soon as possible to ensure that they are included in the general plan.

The NRC Logistics Handbook contains all procedures to be implemented and regulations to be followed by any NRC operation.

8.6 Corruption

Most of NRC's operations are in challenging environments, in countries where corruption is widespread. Emergencies, in countries affected by conflict or natural disasters, are fertile ground for corruption due to dysfunctional official structures and limited national capacities.

NRC has worked actively to avoid corruption for several years. The Anti-Corruption Guideline is an attempt to build awareness and to systematise experiences and lessons learned and make corruption-related procedures and policies easily available.

ICLA mainly provides services, not goods, meaning there are fewer possibilities for corruption compared to the other core activities. However, there are also risks in ICLA that should be pre-empted and avoided:

- Selection of beneficiaries – short cuts – preferential treatment to certain individuals or groups
- Charging beneficiaries for services that are supposed to be free
- Nepotism in staff recruitment

8.7 Security

The term 'security' encompasses a number of issues, e.g. personal security, residential security, office security, security of beneficiaries etc. These are all covered in the NRC Start-up Handbook. See also the NRC Security Instructions (updated version available on the intranet) which is the steering document for security.

For ICLA, due to the sensitive information dealt with during the execution of ICLA projects, there are two key security issues that deserve special attention: the security aspect of project design (to be considered in conjunction with 'Do No Harm' in **Section 3.5.6** above); and information security. Particular risks may include intimidation of ICLA staff by governmental officials as well as key players in local power structures; vulnerability to collateral damage while visiting or working with government institutions (especially where the government is active in armed conflict); and disclosure of sensitive information which might alter/affect the perception of NRC, especially seen in relation to protection monitoring work.

It is highly recommended that all ICLA programmes prepare a risk analysis outlining what are the main security risks that may arise as a result of programme activities. This can be as varied as handling a high profile case with political implications (often the case when we deal with land, for example), GBV cases where the family of the perpetrator might want to deter further intervention from external actors or where information on the activities of armed groups is being collected and reported. Risks can also be created by issues external to the programme, such as change in the political context, natural disasters, common criminality, etc.

Below are useful checklists to assist you in carrying out risks analyses.


<input checked="" type="checkbox"/>	Security aspects of programme design
<input type="checkbox"/>	How will beneficiaries be involved in the design? How will people be informed of the project or programme? Might any groups misunderstand the plans, and gain false expectations? How could these expectations be managed?
<input type="checkbox"/>	Might your plans undermine or strengthen someone's power base? Who will gain and who will lose out, as a result of your plans?
<input type="checkbox"/>	Might any groups oppose the plans? Will your plans be seen as fair and impartial?
<input type="checkbox"/>	Do planned activities involve protection monitoring? Will reports comment on the local political/security situation, identify different actors and their roles and contains statements as to the protection needs of the local population? Would armed groups be able to take this information from ICLA teams in transit? Who is the formal recipient of the reports?
<input type="checkbox"/>	How will other organisations be informed of the plans? Will the plans need to be coordinated with them from a programme or security point of view? Will they have a chance to comment or advice on your plans before they are finalized?
<input type="checkbox"/>	Will local people have a means of making comments or complaints during implementation? How will these be handled?
<input type="checkbox"/>	How will you ensure that beneficiaries know about the NRC Code of Conduct, and that they are encouraged to report any breaches of this Code?

Information security ensures that important information is not lost, and that strictly confidential information remains confidential.

<input checked="" type="checkbox"/>	Information Security	
<input type="checkbox"/>	Filing system	Is there an efficient filing system in place to ensure that information does not get lost?
<input type="checkbox"/>		Are sensitive or confidential files clearly marked as such, and kept in unmarked, locked filing cabinets, in rooms not accessible to the public?
<input type="checkbox"/>		Are contracts, registrations, etc. kept in the office safe?
<input type="checkbox"/>	Computer security	<p>Are there back-up routines in place for files of value or confidentiality, (incl. files required for reports to donors)? Are copies/back-ups kept in a different location than the originals?</p> <p>Note: Information stored on a computer is vulnerable to damage and theft, even if passwords are used. Files remain on computer discs and can be read even if they appear to have been deleted. An alternative to using the NRC servers for submitting sensitive ICLA information, could be to explore the use of Hotmail or Yahoo email-although retrieving advice from the NRC IT department in advance to establish level of security for your local context is recommended.</p>
<input type="checkbox"/>	Files for evacuation	<p>If evacuation is a possibility, is there a list of the files (e.g. personnel files, financial files, sensitive client files) which should be brought with the team when evacuating?</p> <p>Note: Certain types of information may also be dangerous for staff to carry when evacuating as they may be searched when attempting to leave.</p>
<input type="checkbox"/>	Radio, telephone and e-mail security	<p>All radio and telephone conversations, faxes and e-mails can be listened to or read by others, even if encryption is used. Satellite phones are no more secure than other phones.</p> <p>The obvious way to avoid giving away sensitive or confidential information is not to send it. When unavoidable, be aware of the risks (to you and others, including local people) and weigh them against the benefits. Is it essential that that person receives the information quickly?</p>
<input type="checkbox"/>	Information that should not be recorded	Avoid recording any sensitive information (including photos) that is not strictly needed to record or information that might give the impression that NRC is gathering information that might compromise the security of a local authority or a party in conflict.
<input type="checkbox"/>	Security breaches	What procedures are in place in case of security breaches, including thefts of computers containing ICLA information? Emphasis could be made on reporting thefts of computers containing ICLA information, hence also contingency plans explored as to potential consequences if such information ends up in the possession of hostile actors. Additional efforts should be introduced into investigative work whenever sensitive ICLA information is stolen or disappears.

PART 9 – ICLA EXIT AND CLOSURE

According to the NRC Policy Paper (2006), NRC will close a programme when:

 *“The target group is no longer in need of protection or the type of assistance offered by the NRC, or the group’s needs are being fulfilled by other actors. The NRC no longer has access to the refugees or IDPs, or is no longer in a position to implement professionally justifiable programme activities. The safety of the relief workers cannot be adequately ensured. The relevant situation has reached an impasse, and the activities of the NRC will not in any substantial way contribute to constructive, lasting solutions. It is not possible to obtain sufficient financial, human or other resources to carry out the efforts.”*

The planned closure of a country programme should be set out in the Country Strategy (covering a period of 3 years and revised annually), which is approved by the NRC Management Group. When time for phasing out is approaching, an exit strategy should be developed with an exit schedule which will be presented to the Management Group for approval.

The NRC Exit Handbook (May 2007) provides comprehensive information on a range of topics from the development of exit strategies to the closure of filing systems. The Exit Handbook also covers evacuations and rapid departures. For internal finance requirements relevant to programme closure, see also the NRC Financial Handbook.

The Exit Handbook does not cover the specificities of a legal programme like ICLA. There are special legal obligations towards beneficiaries and the state that vary depending on national legal requirements. Two topics are of key importance to ICLA programmes: how to deal with any opened legal cases⁷² and how to dispose of beneficiary information collected, including client files.

9.1 ICLA Closures

The NRC Policy Paper and the Exit Handbook provide the general framework for making a decision on exit from programme countries. However, the ICLA Policy does not include any provisions or criteria as to whether to continue or stop an ICLA programme. By analogy, it is possible to apply the criteria from the NRC Policy Paper and the Exit Handbook to ICLA but this requires interpretation and adaptation to the specific requirements of an information and legal aid programme. Funding and safety considerations do not require further explanation but some of the other exit criteria **may** unfold as follows:

⁷²) CAD defines a **legal case** as a dispute between opposing parties resolved by a court, or by some equivalent legal process. **1) Statutory:** here we count cases which are processed by statutory institutions. **Customary:** here we count cases which are processed by customary institutions.

The target group is no longer in need of protection or the type of assistance offered by NRC, or the group's needs are being fulfilled by other actor

- there has been a change in regime or government that is inclined to respond to the needs of displaced persons and NRC ICLA type of assistance is no longer relevant;
- in the case of refugees, a comprehensive and viable return plan is agreed between governments and UN agencies making ICLA type of assistance redundant;
- local organisations have the necessary capacities and resources –including viable funding in the future- to deliver the assistance required;
- other organisations are present and willing to take over the issues and target group covered by ICLA.

NRC no longer has access to the refugees or IDPs

- security has to be good enough as to enable ICLA staff to provide the assistance required including representing legal cases and to discuss and inform the target group of the proceedings;
- authorities may not wish that the ICLA type of assistance is delivered to the target group and may impose all sort of restrictions that are not security related but that make it impossible to access the target group.

However, managers need to be alert to the following possibilities:

- access may be achieved through implementing partners if adequate remote control procedures are in place;
- access may be temporarily restricted and activities may resume afterwards.

NRC is no longer in a position to implement professionally justifiable programme activities

- authorities are imposing conditions that are impossible to meet for independent legal aid providers. i.e. license requirements for legal aid providers;
- the legal and information needs of the target group fall outside NRC's expertise and focus;
- there are no existing frameworks, formal or informal, for NRC to deliver legal assistance in the ICLA areas of expertise e.g. absence of a property restitution mechanism, functioning civil registry, etc.

The activities of the NRC will not in any substantial way contribute to constructive, lasting solutions

- the conflict is protracted and without signs of any resolution, hence NRC's presence will not make a difference;
- the authorities are not willing to create conditions for solutions to the displaced population and it is understood that NRC's efforts through ICLA type of programmes will not have any influence in this position.

This checklist is not exhaustive. There are other issues that may arise in the different contexts of ICLA operations that will have to be carefully considered.

There are two provisions in the ICLA Policy of special relevance to exit:

1) NRC will plan any legal assistance project with the assumption that it may require a longer-term perspective, with individual cases caught up in extensive administrative procedures or court hearings.

(Section 3.3.)

Although this provision does not relate to closure per se, it is important that ICLA interventions are planned with long term perspectives since national legal procedures may fall out of the direct control of the programme and in fact take a long time before concluding. In some circumstances, this may entail that according to the criteria of the NRC Policy Paper all other programme activities should be closing, but an ICLA programme may have to remain in order to see some of the legal processes finalize. Yet, this will again have to be considered in light of the programme context: funding, security, etc. This precision being made, it may well be that an ICLA programme should exit before or after all other programme activities, if applying the criteria of the NRC Policy Paper indicates so.

2) Well ahead of a general NRC exit from a programme country and in accordance with NRC exit criteria, the organisation will consider and determine whether to:

- transfer expertise and caseload to other relevant local or international agencies;
- transfer caseload and equipment to successor organisations established by the national staff;
- close legal assistance by handing back cases to the individuals concerned.**(Section 3.4)**

This provision offers the three possible alternatives to handling an ICLA caseload. Alternatives are further elaborated in the two sections below.

9.1.1 Handover of ICLA cases

In situations where pending cases are to be handed over to another legal aid service provider, whether it is other relevant organisations or a successor organisation established by national staff, a few key issues to consider include the following:

- The decision to hand over cases should be made well in advance including a plan that contemplates different scenarios so the programme is prepared in case the envisaged recipient of cases backs off;
- Providing legal assistance is not exempt of responsibilities in many national legal frameworks. The procedures envisaged to handing over cases need to be compliant with national legislation;
- The capacity and future funding possibilities of the organisation selected to handle the cases need to meet the requirements of handling a legal aid programme;
- NRC may have to enter into formal agreements with the organisation to ensure accountability;

- How will the cases be handed over? Is a series of case briefings required? Who will attend these? Or, is a handover period of perhaps 3-6 months required?
- A handover period could be part of a larger capacity building exercise. Appointing and training case managers that will eventually take over management of the case load should start early in the programme life.
- Handover of full responsibility of cases may occur earlier than programme closure so that the new organisation's treatment of cases can be monitored;
- ICLA beneficiaries must be informed about the changes and their consent sought. Activities to introduce them to the new service providers will have to be factored in the exit plans.

9.1.2 Dealing with beneficiary information

The ICLA policy suggests that when there are no alternative organisations to take over ICLA caseloads, the cases should be handed back to the individuals concerned. This is the general rule and the following points may help to ensure that as many files as possible are handed back to beneficiaries:

- Ensure that ICLA case management procedures including closure are in line with national legislation;
- Process cases gradually and devolve files to beneficiaries throughout the life of the programme to avoid sitting on a large volume of files to be devolved to beneficiaries when exit is approaching;
- When exit is approaching carry out an information campaign –public or addressing each beneficiary individually- so beneficiaries can approach NRC to collect their files;
- Conduct an inventory of all existing opened and closed case files.

However, handing over files to beneficiaries may not be possible in all situations due to security restrictions, geographical spread of the beneficiaries, lack of contact with beneficiaries over a long period of time, etc. If the operation is closing down and some files have not been devolved:

- Check what is the relevant national legislation when it comes to file conservation by legal aid providers;
- Explore the alternatives of keeping files with a trustee in the country or transporting them to a secure location;
- If the national legislation allows, consider destroying the files. If that choice is made ensure that beneficiaries have been informed about this eventuality i.e. during the information campaign.

9.1.3. Lessons learned

Lessons and experiences are accumulated throughout ICLA programmes. However, it is particularly important to consolidate those before the end of the programme since it will be difficult, if not impossible, to reach beneficiaries and other stakeholders after the programme is officially closed. Also, documentation may not be in reach once files have been handed back to beneficiaries or archived.

Capturing knowledge should not be confused with end of programme evaluations that may take place before or after the programme is closed.

There might be great variation in the content of a final programme document capturing knowledge and experience. Some suggestions may include:

- Focus on the general outcome of the programme. What benefits has it brought to beneficiaries? Has the programme caused any unexpected harm?
- Focus on specific issues important for the target group: positive changes in legislation or policy, perceived improvement in the practice of authorities, issues that are still a concern, etc.
- Focus on programme management issues. For example, what tools have worked well and how have they been made available to the organisation, what tools would have the programme benefitted from, how have human resources developed throughout the programme life, and how have they affected the programme life;
- Provide the final statistics on the assistance delivered throughout the programme life.

APPENDIX 1 – The ICLA Policy

CORE ACTIVITY POLICY DOCUMENT

Preamble

NORWEGIAN REFUGEE COUNCIL GLOBAL MANDATE AND POLICY

“The NRC shall promote and protect the rights of all people who have been forced to flee their countries, or their homes within their countries, regardless of their race, religion, nationality or political convictions. This will be achieved by acting as an independent and courageous spokesman for refugee rights nationally and internationally, by providing humanitarian assistance in emergency situations, and by strengthening the capacity of the UN organisations to offer and coordinate international aid and protection. The NRC shall in all ways seek to provide viable, durable solutions with regard to both its spokesman activities and its emergency relief efforts.” (NRC Statutes, Article 1)

INFORMATION, COUNSELLING AND LEGAL ASSISTANCE (ICLA)

1 OBJECTIVES

1.1 The primary objective of ICLA is to contribute to durable solutions for refugees, IDPs and returnees and to assist them in obtaining their rights.

1.2 Within this, the specific objectives of ICLA are to:

- Contribute to the best basis on which target groups in exile can decide whether to return or integrate locally.
- overcome legal obstacles, particularly related to housing, land and property issues.
- contribute to the recognition of legal personality and access to rights and services that are dependant on obtaining personal identity documents.
- contribute to the improved protection of particularly vulnerable individuals, such as sexual and gender-based violence victims and female heads of households.
- based on return monitoring, mobilise remedies to threats to protection and durable solutions.
- based on advocacy on identified and documented issues of concern, contribute to their solutions or improvements.

2 TARGET GROUPS

2.1 Primary target groups are refugees, IDPs and returnees.

2.1.1 Where there is limited implementation of durable solutions, priority will be given to facilitate voluntary pilot returns or local integration.

2.1.2 Particular attention will be given to vulnerable individuals and groups.

2.2 Secondary target groups, such as non-displaced other ethnic groups or host populations, may be included to avoid the perception of discrimination or bias.

3 PHASES

3.1 During conflict in the area of operation, a small ICLA component may be integrated in other activities, such as camp management, to help facilitate return and maintain focus on durable solutions. Where conflict is protracted, a careful assessment will be made before establishing an ICLA project.

3.2 ICLA is particularly relevant for post-conflict situations with opportunities for durable solutions, including in complex emergencies where a post-conflict phase may apply only to limited safe areas.

3.3 NRC will plan any legal assistance project with the assumption that it may require a longer-term perspective, with individual cases caught up in extensive administrative procedures or court hearings.

3.4 Well ahead of a general NRC exit from a programme country and in accordance with NRC exit criteria, the organisation will consider and determine whether to:

- transfer expertise and caseload to other relevant local or international agencies.
- transfer caseload and equipment to successor organisations established by the national staff.
- close legal assistance by handing back cases to the individuals concerned.

4 APPROACH

4.1 Legal assistance

4.1.1 NRC provides legal assistance, usually through individual case work, but it may also may entail class action.

4.1.2 Priority will usually be given to facilitate return, but when this is not

feasible (or not preferred by the target group), NRC will provide legal assistance to facilitate local integration (refugees) or resettlement (IDPs).

4.1.3 NRC may pursue legal action through all relevant local, national and international legal systems and mechanisms, including customary law, conflict resolution and mediation mechanisms and any other prevalent systems of law - in addition to statutory law and the courts.

4.1.4 The first tier of NRC legal assistance will be to provide 'brief legal advice' on any legal issue of the client's concern, where clients can reasonably easily solve the problem themselves. Requests are answered immediately, if necessary with advice on seeking legal administrative assistance elsewhere.

4.1.5 Under a second tier, NRC may provide extensive legal assistance to pursue issues of:

A. Obtaining documents relating to identity/civil status or accumulated rights such as pension or employment), particularly if it entails a cross-border approach (or one along an internal axis of displacement). This may be coordinated with NRC Education projects (see Education Policy).

B. Accessing housing, land and property rights. In situations of return, this usually means the pursuit of restitution of property or land rights held at the time of displacement. Where such property is occupied by other displaced persons, NRC will pursue co-ordinated solutions for all displaced parties. In relation to local integration, assistance will usually be given to secure permanent rights to land/housing provided by local or national authorities. This can be coordinated with Shelter projects (see Shelter Policy).

C. NRC may provide legal assistance to particularly vulnerable individuals that face special protection needs or obstacles to durable solutions caused by gender based violence or due to their displacement and gender based lack of access to livelihood, land and inheritance.

4.1.6 NRC may provide training in legal issues to target groups and key local actors - to establish a platform of understanding of rights and applicable law, and subsequent legal approaches to key issues.

4.2 Information, counselling and return monitoring

4.2.1 NRC may provide information and counselling to displaced persons to help them make decisions on whether to return or to integrate locally. This should include knowledge acquired first hand by NRC, as well as from secondary sources, on potential areas of return or local integration.

4.2.2 Return monitoring will be initiated when follow-up mechanisms (including NRC legal assistance) are already identified and established. Requests for information or assistance on issues outside NRC priorities will

be referred to another appropriate agency, with particular care taken when referring clients to medical and psycho-social assistance for victims of sexual and gender-based violence.

4.2.3 In immediate post-conflict situations, these activities can constitute a gradual continuation and replacement of NRC camp management and co-ordination.

4.2.4 ICLA projects will preferably be established where other NRC activities are providing assistance.

4.3 Advocacy

4.3.1 NRC will identify and document protection issues of concern and legal obstacles to durable solutions, and advocate for solutions in the field, as well as through the Internal Displacement Monitoring Centre in Geneva and other relevant channels.

4.3.2 NRC will provide periodic and thematic reports to advocate for the rights of target groups with key actors, and to document the ICLA approach.

5 COORDINATION AND COOPERATION

5.1 ICLA will be particularly effective through co-ordinated cross-border approaches in the country of exile and the country of origin, or along internal axes of displacement for IDPs.

5.2 Generally, NRC will not use implementing partners to implement ICLA projects, but may cooperate with other partners where principles of neutrality and other NRC values are maintained. For example, NRC will always work closely with the United Nations High Commissioner for Refugees (UNHCR) in the field and support its protection mandate and impact. Though there is a need to strengthen local capacity, co-operation with local NGOs and institutions will be considered carefully, as they may not be (or may not be perceived by the target group to be) neutral in the conflict.

6 LEGAL FRAMEWORK, POLICIES AND GUIDELINES

6.1 ICLA activities will be based on and carried out within the framework of the following instruments and policies:

- 6.1.1 International and Domestic Law
- International Human Rights law
 - International Humanitarian Law
 - Regional instruments

- UN Office for the Coordination of Humanitarian Affairs (OCHA)
Guiding Principles on Internal Displacement
- Domestic legislation and customary law and practice.

6.1.2 NRC policies

- Policy Paper
- Protection Policy
- Evaluation Policy
- Code of Conduct
- ICLA Handbook
- Core Activity Policies

APPENDIX 2 – The ICLA Core Activity Database Definitions and Users Notes

1. Introduction

The following definitions and user's notes aim to guide the reporting responsible for each project in filling out the monthly statistical report, called the Data Capture Sheet (DCS), that will be uploaded into the Core Activity Database (CAD). The definitions provided are adapted to NRC's realities and practices and may not always coincide with definitions used by other agencies or donors. The DCS is not intended to capture and count the full reality of the field, given the great variety of contexts in which NRC programmes are operating. The definitions are generic to provide every project an opportunity to report on their activities using the same indicators, and thus allowing for a streamlined reporting system for the organisation as a whole. In this way, the CAD will be a common resource used for reporting on the activities of the organisation and for planning of future interventions.

The reporting parameters are also generic. Not every project has to report a figure in every field in the DCS. Some programmes work with IDPs only, hence the Refugee fields will be left blank. The DCS is designed to enable every project to report on their activities and not to force every programme to carry out certain activities in order to report numbers in every field of the DCS.

Filling in the DCS: Methods and services

The text below follows step by step the tables in the DCS, providing the relevant definition to apply to each indicator.

- The DCS is divided under four titles corresponding to the four ICLA methods; Information, Counselling, Capacity building and Legal assistance.
- Under each method, ICLA programmes deliver services. For example, an information session on durable solutions is a service delivered under the method Information, and should be inserted in the DCS under the title Information.
- One beneficiary should be counted only once per method.
- If one beneficiary benefits from services under two different methods, the beneficiary should be counted once per method, thus two times in total in the CAD.
- One beneficiary may profit from several services under one or more methods, and all these services should be counted under the relevant methods.
- Both beneficiaries and Services are counted as the service is finished/ the case is closed except for Opened Cases under the method Legal Assistance.

General definitions: What are we counting?

The DCS enables us to gather statistics about how many beneficiaries we are reaching with our assistance and how many services we are providing to those beneficiaries. The distinction is important since one beneficiary may receive various services.

1.1 Beneficiaries (total # of)

For the purpose of the DCS, a beneficiary is a direct recipient of ICLA services. Family members, dependants and others who may benefit from the assistance are not counted in the DCS as beneficiaries.

We only count beneficiaries of counselling, capacity building and legal assistance services. For that purpose we have incorporated to those Sections in the DCS a column or block to report those statistics. The statistics are disaggregated by displacement status and gender. For legal assistance the information is disaggregated also according to legal theme and the outcome of the service received.

We have decided not to count beneficiaries of information activities, only services. This is to avoid burdensome statistic gathering process since some activities may entail large gatherings of beneficiaries i.e. focus groups, screening of videos, drama, etc. It would be difficult to know if beneficiaries have already received information from NRC individually.

We only report the **NEW** beneficiaries (for whom it is **the first time** a service/case has been closed) during the reporting period. The year-to-date reporting function will accumulate figures from previous reporting periods.

It is important that beneficiaries are only counted **ONCE** for each method (counselling, capacity building and legal assistance) even if they receive several services at different times. For example, a beneficiary may receive assistance in several legal assistance cases. When the first case is closed s/he will be counted. When the other cases are closed s/he should not be counted again. In-country systems need to be adjusted to ensure this rule is followed, for example by assigning an ID number to each beneficiary. Otherwise, there is a risk of counting the same individual multiple times.

1.2 Beneficiary categories

Primarily, a beneficiary of ICLA assistance is categorised according to gender and displacement status. These dimensions are used across the DCS and are defined in the following paragraphs in this Section. They apply to all methods: information, counselling, capacity building and legal assistance. There are however, three particularities:

- Regarding capacity building, the list of beneficiary categories also includes authorities, UN/INGO staff and local NGO/CBO staff.
- Assistance delivered to host communities can be reported under every method, although belonging to a host community is not a displacement status, per se.

- Victims of SGBV are only counted under counselling and legal assistance.

a. Refugees

- Persons meeting the criteria in the 1951 Refugee Convention, the OUA Convention and the Cartagena Declaration whether or not they have been recognised as refugees by states signatories to those instruments.
- Persons who are recognised as refugees, whether through individual or group status determination, by UNHCR acting under the authority of its Statute and relevant UN General Assembly resolutions. Mandate status is especially significant in States that are not parties to the 1951 Convention or its 1967 Protocol.
- Persons of concern to UNHCR i.e. all persons whose protection and assistance needs are of interest to UNHCR. These include refugees under the 1951 Convention, persons who have been forced to leave their countries as a result of conflict or events seriously disturbing public order and stateless persons. UNHCR's authority to act on behalf of persons of concern other than refugees is based on General Assembly resolutions.
- Persons who were not refugees when they left their countries of origin, but who become refugees at a later date, owing to intervening events. Refugees sur place may owe their fear of persecution to a change in the country of origin, such as through a *coup d'état*, or to *bona fide* political activities undertaken in the country of refuge.
- Persons considered being refugees under the provisions of the international instruments that were in force before the 1951 Refugee Convention i.e. statutory refugees.

b. IDPs

A person or group of persons 'who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border.' [1998 Guiding Principles on Internal Displacement]

Persons falling under this definition who are not considered IDPs by state authorities may still receive assistance from NRC and will be counted as IDPs for the purposes of this database.

c. Refugee Returnees

Refugee returnees are persons or group of persons that have returned to their country of origin, voluntarily or involuntarily, and who are receiving assist-

ance from NRC to reintegrate. Please note that for UNHCR, voluntary return means that refugees have reached a durable solution i.e. a change in legal status. NRC may still provide reintegration assistance to refugee returnees despite the fact that they are no longer of concern to UNHCR.

d. IDP returnees

IDP returnees are persons who have returned to their place of origin but still require reintegration assistance in order to reach a durable solution.

e. Host Community

A community that has not been or is no longer displaced which cohabits in close vicinity with displaced population. Here we register individuals belonging to host communities.

f. Authorities

Any individual working at any level of public administration or political institutions i.e. civil servants, parliamentarians, customary or religious authorities, etc as long as their authority is recognised in national legal and institutional frameworks.

g. UN/INGO staff

Individuals working for United Nations Agencies, international organisations and international non-governmental organisations.

h. Local NGO/CBO staff

Individuals working for national non-governmental organisations or for community based organisations. If we are providing training to the leaders/staff of a Refugee/IDP/Returnee association we will count them here, as long as they are invited in that capacity. If their positions in the organisation are irrelevant and they are only being trained because they are displaced they should be counted under the categories defined above.

i. Beneficiaries victims of Sex and Gender Based Violence (SGBV)

They are individuals belonging to any of the following categories of beneficiaries (refugees, IDPs, returnee refugee, returnee IDPs, and host communities- see definitions of these categories) that have been subject to violence directed against them on the basis of their gender or sex. The following are types of gender-based violence:

- Sexual violence;
- Physical violence;
- Emotional and psychological violence;
- Harmful traditional practices;
- Socio-economic violence.

The DCS is NOT aiming to count how many ICLA beneficiaries are victims of SGBV. The aim is to count how many beneficiaries have received a service (s) that is/are related to their condition of victims of SGBV. For example, a woman wants to obtain ID document for a child born as a result of her being

raped. Or a widow wants to repossess land she lost as a result of the death of her husband to his relatives.

Under counselling and legal assistance (closed cases/beneficiaries), there are columns marked as **# of beneficiaries victims of SGBV** we count how many OUT OF THE TOTAL numbers of beneficiaries per service/theme are victims of SGBV. These statistics are also disaggregated by displacement status and gender.

Under legal assistance (closed cases/methods), there is a column to report how many cases are SGBV related.

2. Types of services

For the purpose of the DCS, a service is one unit of assistance provided by NRC ICLA programmes. Sometimes a service may require several actions. For example, a court case requires several actions i.e. interviewing the beneficiary, gathering evidence from a registry, interviewing witnesses, attending several hearings, etc. Each action is not counted as a service.

Every method (information, counselling, capacity building and legal assistance) is broken down into specific services. For example:

- information on durable solutions;
- counselling on the procedure to register a child which was born in exile
- counselling on which institution may provide a service on a specific issue outside NRC's mandate;
- providing legal assistance through Alternative Dispute Resolution before a customary authority in an HLP case.

Each service is defined in the Sections below.

Service statistics are disaggregated by the displacement status of the beneficiary (IDP, refugee, etc) and gender. For legal assistance we have added more parameters to ensure we capture all the complexity of providing legal services. Please refer to that Section for specifications.

If a beneficiary brings to our attention several problems and receives several services, all services are counted. For example, if a beneficiary needs to be referred to an organisation that provides in-court representation and wants NRC to assist him to repossess his property through mediation, EVERY service is counted under each pertinent box. But the beneficiary is only counted once for each method: counselling, capacity building and legal assistance. (Please remember that for information we only count services and not beneficiaries).

If a beneficiary brings to our attention a single problem but it is not clear which service he will receive, it is not reported until a choice of service is made. If the service chosen fails and the case merits other services, all services provided will be counted including the one that failed.

2.1 Information

Information activities aim to provide access to accurate, reliable and timely information to individuals and communities to make sound decisions regarding durable solutions to their displacement and to make them aware of the rights.

The basic difference between information and counselling is that information is generic and not tailored to solve specific problems or needs of an individual or group. The information provided should not imply an advice on what is the best solution (viable, sustainable, etc) to a specific problem. This difference is further explored in the ICLA handbook.

Because of the modalities of information provision (i.e. large groups) it is unrealistic at this stage to track every beneficiary and at the same time ensure we do not double count beneficiaries. Therefore, only services will be counted in the DCS and the total number of beneficiaries of assistance under this method will have to be estimated by ICLA managers and reported elsewhere in other tools i.e. quarterly and donor reporting, etc.

So how do we count information services?

There are three separate dimensions to report statistics about information activities:

1. Types of services
2. Group sessions
3. Use of media.

Item	Definition
1.Types of services	Information services are defined by the content of the information. In this first dimension we report statistics about ALL the services we provide, i.e. every individual that receives information from NRC, even if he receives several services, will be counted here. Therefore, if somebody sits in a group session on rights awareness but also comes to an ICLA office three times to receive information on durable solutions issues (a form to claim property, the address of the civil registry and whether or not he is entitled to government emergency assistance) we will count 4 services. The DCS disaggregate data about services by displacement status and gender.
Durable solutions	Return, Local Integration, Resettlement: NRC active in the latter only in contexts of internal displacement. Activities conducted by ICLA programmes to provide accurate and reliable facts about the conditions for return, local integration or resettlement (the latter only valid in contexts of internal displacement) with the objective of enabling displaced persons to make an informed decision. This information may include facts about 1) the general situation (political situation, safety and security, freedom of movement, amnesties, mechanisms for reintegration, etc.); 2) the procedures for returning, integrating locally or settling elsewhere,(what documents are needed, what the legal or administrative procedures are, what reintegration packages are available, what transport will be available, etc.); 3) the conditions on return, local integration or assistance from national and international agencies, etc.); 4) information about services provided by NRC and other humanitarian actors
Rights awareness and sensitization	The provision of information about rights aiming to raise awareness among target groups. Depending of the context, the target groups could be informed on international human rights standards, rights enshrined in domestic statutory law (i.e. constitution), or rights arising from customary laws and practices. Awareness and sensitization is different from training. Training implies a transfer of skills while awareness and sensitization only implies that beneficiaries become aware about the existence of rights and their scope.
2.Group events	For further analysis of the methodologies we use for delivering information we specifically track how many group sessions we have we hosted in the reporting period and how many individuals attended.
# of group sessions	A group session is an event where NRC delivers information on durable solutions or rights to a group. In this box we want to track how many information group sessions have taken place within the reporting period.
# of people attending the group sessions	Individuals attending information group sessions only! In the previous block we register ALL information services delivered by NRC, whether one-to-one or through group sessions. In the box marked as “# of people attending the group sessions” we track only those who attended group events.

3. Use of media	The use of media refers to using radio, TV, or other type of methods, i.e. leaflets to disseminate information about durable solutions or rights.
# of times	Since it is not possible to track the exact number of recipients of information disseminated through media we want to track how many units (TV programmes, radio spots, leaflets, or other publications) were released during the reporting period. How to count? For example, if the same radio jingle on HLP issues is broadcasted 4 times per month in 12 radio stations, we count 48 # of times.

2.2 Counselling

Counselling is one-to-one advice to a beneficiary on how to overcome obstacles to durable solutions, what institutions can assist in addressing protection gaps and/or how to address legal issues, including obtaining their rights and entitlements. It is a step beyond information on durable solutions or rights (see the previous Section) because it entails a degree of analysis of the problems faced by the beneficiary and provides advice on what is the best possible course of action to solve a particular problem. It may require more than one interview with the beneficiary and it may entail making contact with institutions or third parties.

Please note that counselling is different from Alternative Dispute Resolution (ADR) because the beneficiary merely offers one individual or group advice while ADR is when two or more parties with a dispute, solve that dispute without having resorting to a formal judicial decision. For the purpose of the DCS, ADR requires specific engagement from NRC to solve the problem.

So how do we count counselling services and beneficiaries?

Unlike with information, there is only one block in the DCS for reporting counselling statistics. Counselling differentiates between services and beneficiaries to avoid double counting when a beneficiary receives more than one counselling service. Remember, if more than one counselling service is provided to one beneficiary we count all services provided but we only count one beneficiary. In-country data monitoring systems need to be adjusted to ensure this rule is followed, for example by assigning an ID number to each beneficiary. Otherwise, there is a risk of counting the same individual multiple times. The DCS includes a column to report the total number of beneficiaries.

Item	Definition
SERVICES	
On durable solutions	One-to-one advice on a problem related to the same catalogue of issues listed under information on durable solutions suggesting the best course of action to address the problem.
On Legal Issues (legal brief)	One to one advice on any specific rights violation, legal claim, rights to benefits or assistance they ay have, etc. Beneficiaries will be encouraged to solve the problem by themselves, unlike with legal assistance.
Referrals	One-to one advice on what institution can assist in solving a problem which does not fall within NRC's programme activities. Generally, there will be some kind of agreement and understanding (more or less formal) between NRC and the institution with the mandate and capacity to deliver assistance.
INDIVIDUALS	
Total # of beneficiaries	Please fill in the total # of beneficiaries having profited from the services. Remember, if more than one counselling service is provided to one beneficiary we count all services provided but we only count one beneficiary.
# of victims of SGBV	Please refer to point II 1.2 i

2.3 Capacity building

Activities aimed at assisting target groups and key local actors to develop skills or competencies that will enable them to contribute to durable solutions and protection of rights. There is only one block to report capacity building statistics on services and beneficiaries. Usually, activities entail delivering training services on the following themes:

- IDP guiding principles
- Refugee and Human Rights Standards
- Domestic Law

So how do we count capacity building services and beneficiaries?

If an individual is receiving training in more than one subject, we will count a service for each time he has been trained. However, we will only count one beneficiary, as we do with counselling. In-country data monitoring systems need to be adjusted to ensure this rule is followed, for example by assigning an ID number to each beneficiary. Otherwise, there is a risk of counting the same individual multiple times. The DCS includes a column to report the total number of beneficiaries.

2.4. Legal Assistance

Legal assistance is a modality of support to an individual or group of beneficiaries that implies using a legal methodology to solve a problem. A principal difference with information and counselling is that in those modalities the beneficiaries may solve the problems by themselves while in legal assistance cases, further NRC intervention is required.

So how do we count cases and beneficiaries of legal assistance?

As in counselling and capacity building we count services (i.e. cases) and beneficiaries. If an individual is receiving legal assistance in more than one case, we will count every case. However, we will only count one beneficiary, as we do in counselling and in capacity building. In-country data monitoring systems need to be adjusted to ensure this rule is followed, for example by assigning an ID number to each beneficiary. Otherwise, there is a risk of counting the same beneficiary multiple times.

Since cases may extend over a considerable length of time, the DCS divides legal assistance statistics in two blocks: opened cases and closed cases.

- Opened cases are disaggregated by the number of individuals and by legal themes.
- Closed cases are disaggregated by the same criteria plus type of jurisdiction and outcome. It is also possible to report how many are SGBV related cases. It is only after a case is closed that statistics about beneficiaries are reported, disaggregated by theme, displacement status, gender and outcome of the case.

Item	Definition
OPENED CASES LEGAL ASSISTANCE	<p>From the moment that a case is registered until a case is closed it is consider open. We only count newly open cases in each month/period and do not accumulate opened cases from previous months/periods. For example, in January 2008 we opened 10 cases and in February we opened 8 new cases. The January Monthly report shows 10 open cases and the February Monthly report shows 8 AND NOT 18!!!. The year-to-date report will show the accumulated number and is generated automatically by adding all open cases and subtracting all closed cases. Some programmes referred to this as newly registered cases.</p> <p>Please do NOT count an open case more than once!!!</p>
CLOSED CASES LEGAL ASSISTANCE METHODS	<p>A case is closed when one of the following outcomes has been reached and NRC's assistance is not longer pertinent. The purpose of the following classification is to understand whether our legal assistance is contributing to durable solutions and protection of rights beyond the mere formal resolution of a case.</p>

	<p>Successful</p> <p>A case is closed successfully when a decision or an agreement is reached and the problem is resolved in a manner that contributes to durable solutions and protection of rights and NRC's assistance is not longer required. This does not necessarily mean that the case is solved in favour of NRC beneficiaries. A successfully closed case includes the following:</p> <ul style="list-style-type: none"> - the decision has been implemented - the process was fair and followed available procedures.
	<p>Unsuccessful</p> <p>A case is closed unsuccessfully when the decision reached is not resolving the problem in a way that contributes to durable solutions and protection of rights and NRC's legal assistance is not longer pertinent. This includes:</p> <ul style="list-style-type: none"> - the decision was reached but never implemented; - the process was unfair and available procedures were not followed. <p>(Note: If one of these outcomes has been reached and ICLA decides to initiate advocacy or other activities beyond the pure legal approach to the case e.g. by bringing the case to the attention of anticorruption authorities, for the purposes of this database the case is considered opened).</p>
	<p>Without result</p> <p>No result to the request, matter or problem has been confirmed by NRC after a specified period of time –to be explicitly determined by every NRC ICLA Programme- and NRC's assistance ceases. This includes when a client indicates that s/he is not interested in continuing a case or when the client has not had contact with NRC over a specified period of time.</p>
Individual case	<p>When an individual requests assistance to solve one specific legal problem or matter. For example, s/he has been de-registered as an IDP and has lost his/her status and subsequently the humanitarian assistance associated to it. S/he wants to file an administrative request to nullify the decision and be registered. We count this as one case. If the same individual wants legal assistance to file a case in court to repossess his/her property, it is counted as another case. If she is a victim of SGVB (her husband is repeatedly attacking her) and she wants to be represented in court –but NRC does not provide in-court representation in criminal cases- and she is referred to another organisation, this is recorded under counselling i.e. referral. If the case worker is not sure of what methods of assistance the beneficiary requires this situation should not be reported to CAD until it is clear.</p>

Group/collective case	<p>When several (more than one) individuals request assistance from ICLA to solve one specific legal problem or matter pertaining to the same situation and they have agreed to be represented by NRC, this is counted as ONE GROUP CASE. For example, three individuals want to repossess their land which is occupied by the same occupant.</p> <p>On the contrary, if an ICLA programme has detected several cases that entail the same problem and could be processed together but no connection exists between beneficiaries we count them as individual cases.</p> <p>Remember: one individual might be part to a group case and receive individualized assistance in another case. S/he is counted once but services are counted twice.</p> <p>Important : A case setting a precedent is not necessarily a group case.</p>
Alternative dispute resolution (ADR)	<p>ADR refers to any of a number of procedures that people may use to resolve their disputes as an alternative to litigation in courts of justice. The main types of ADR ICLA practitioners are likely to encounter are negotiation, mediation or arbitration. All can be reported under the rubric ADR.</p>
Legal cases	<p>A legal case is a dispute between opposing parties resolved by a court, or by some equivalent legal process.</p> <ul style="list-style-type: none"> • Statutory Here we count cases which are processed by statutory institutions. • Customary Here we count cases which are processed by customary institutions. <p>Double counting should never be a problem in closed cases because the reporting officer will be sure under what type of method/jurisdiction the case has been closed.</p>
Land, Housing and Property (HLP) rights	<p>Refer to both tangible and intangible property, including land, homes, money, crops and livestock. HLP rights include a range of formal and/or informal rights and entitlements relating to access, use, control and transfer of property. Cases of legal assistance provided to individual/groups to overcome legal obstacles to accessing housing, land or property that constitute a special protection concern or and obstacle for durable solutions will be counted here.</p>
Civil documentation	<p>Refers to two separate categories: a) citizenship or civil status documents which provide proof of identity and facilitate the exercise of various rights. These include passport, identity documents, birth, death, marriage and family certificates , residence, and voting cards. b) documents specific to displacement, which are only provided to those affected by displacement to proof identity and entitle the holder to access special services. Cases where legal assistance is required to obtain the above mentioned documentation are counted here.</p>

Administrative law	The body of law that governs the activities of administrative agencies of government. Cases of legal assistance provided to individuals/groups to address special protection concerns or obstacles to durable solutions that relate to the administrative agency of government labour relations will be counted here.
Family law	The area of the law that deals with family-related issues and domestic relations. Cases of legal assistance provided to individuals in order to solve family related problems that may constitute protection concerns or obstacles to durable solutions will be counted here.
Labour law	Addresses the legal rights of, and restrictions on, working people and their organisations. Cases of legal assistance provided to individuals/groups to address special protection concerns or obstacles to durable solutions that relate to labour relations will be counted here.
Criminal law	The system of, practices, and organisations, used by national and local governments, directed at maintaining social control, deter and controlling crime, and sanctioning those who violate laws with criminal penalties. Cases of legal assistance provided to individuals, who as victims or accused, are parties in criminal proceedings that imply special protection concerns or obstacles to durable solutions will be counted here.
CLOSED CASES LEGAL ASSISTANCE BENEFICIARIES	<p>We only count closed cases-legal assistance beneficiaries. Beneficiaries are only those who have received legal assistance from NRC, NOT their dependants or others affected by the decision (i.e. indirect beneficiaries). A beneficiary could receive legal assistance from NRC in more than one case.</p> <p>In group cases, we will count every individual represented/named in the group case. Again, their dependants will not be counted.</p> <p>Beneficiary status is defined in the same way across the spread sheet.</p> <p>For instructions about the total # of SGBV beneficiaries please refer to the beneficiary categories, point II 1.2 i.</p>

CAVEAT

These definitions are for the purposes of the NRC Core Activity Database. Additional information and analysis such as indirect beneficiaries, the nature of unsuccessful cases, etc can be reported in the narrative text.

APPENDIX 3 – INDEX OF RESOURCES

1) General documents and webs site on displacement

Protecting Internally displaced persons: Manual for Law and Policymakers

The IDMC website: <http://www.internal-displacement.org/>

The Feinstein International Center's report, 'Humanitarian Agenda 2015: Final Report. The State of The Humanitarian Enterprise',

IDMC/OCHA 'Guidance on Profiling Internally Displaced Persons'

[http://www.internal-displacement.org/idmc/website/resources.nsf/\(httpPublications\)/507BAA5117F4E88BC12574B30047A13D?OpenDocument](http://www.internal-displacement.org/idmc/website/resources.nsf/(httpPublications)/507BAA5117F4E88BC12574B30047A13D?OpenDocument)

Institute of Development Studies, UK; internet portal ID21 – development research directed towards both practitioners and policy makers

<http://www.id21.org/index.html>

Consolidating the Profession: the Human Rights Field Officer: project of the Human Rights Law Centre at Nottingham University http://www.humanright-sprofessionals.org/index.php?option=com_content&task=view&id=19&Itemid=35

The Humanitarian Policy Group

<http://www.odi.org.uk/HPG/>

InterAction is a coalition of over 160 U.S.-based INGOs

<http://www.interaction.org>

2) International human rights instruments

UN Convention, declarations and principles: <http://www.ohchr.org>

- International Covenant on Economic, Social and Cultural Rights (1966) (ICESCR), entered into force in 1976
- International Covenant on Civil and Political Rights (1966) (ICCPR), entered into force in 1976;
- Convention and Protocols Related to the Status of Refugees (1951) (Refugee Convention);
- The Geneva Conventions (1949) and the Additional Protocols (1977);
- International Convention on the Elimination of All Forms of Racial Discrimination (1966) (CERD), entered in force 1969;

- Convention on the Elimination of All Forms of Discrimination against Women (1979) (CEDAW), entered into force in 1981;
- Convention on the Rights of the Child (1989), (CRC) entered into force on 2 September 1990; and
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984), (CAT) entered into force in 1987.
- Universal Declaration of Human Rights, 1948 (UDHR)
- The Guiding Principles on Internal Displacement (1998) (Guiding Principles);
- Principles on Housing and Property Restitution for Refugees and Displaced Persons (2005) (Pinheiro Principles)

Regional human rights instruments and declarations

- Council of Europe www.coe.int/t/dghl/default_en.asp
- European Court of Human Rights, Conventions, Protocols and jurisprudence www.echr.coe.int/echr

Great Lakes Protocols

- Protocol on the Protection and Assistance to Internally Displaced Persons
- Protocol on the Property Rights of Returning Persons
- Protocol on the Prevention and Suppression of Sexual Violence against Women and Children

African Union

http://www.africa-union.org/Official_documents/Decisions_Declarations/offDecisions_&_Declarations.htm

Asian Centre for Human Rights (Information on human rights instruments in Asia)
www.achrweb.org

Charter of the Association of South East Asian Nations

South Asian Forum for Human Rights

www.safhr.org

3) Access to justice

UNDP Practitioners Guide to a Human Rights Based Approach to Access to Justice

UNDP Access to Justice Practice Note

UNDP Regional Centre in Bangkok - Resources on Access to Justice
<http://regionalcentrebangkok.undp.or.th/practices/governance/a2j/resources/>

Commission on Legal Empowerment of the Poor. Making the law work for everyone. Final report

4) Gender

Inter-Agency Standing Committee (IASC), 'Women, Girls, Boys and Men – Different Needs Equal Opportunities, Gender Handbook in Humanitarian Action'

UNHCR Handbook for the protection of women and girls

UN Security Council resolution 1325

UNDG Declaration on the Elimination of Violence against Women, A/RES/48/104

Pittaway, E., '**Gendered dimensions of the 2004 tsunami and a potential social work response in post-disaster situation**', International Social Work, 50(3), 307-319 at p 309 (not available in the CD-ROM)

IASC Guidelines for Gender-based Violence Interventions in Humanitarian Settings

UNHCR Sexual and Gender-based Violence against refugees, returnees and internally displaced persons: guidelines for prevention and response

Watchlist on Children in Armed Conflict, Checklist on IDP Children (check the website of children in Armed conflict or google the document)

5) Durable solutions

UNHCR Framework for Durable Solutions for Refugees and Persons of Concern

Brookings Institution When Displacement Ends: A Framework for Durable Solutions

Brookings Institution Durable Solutions for IDPs in Protracted Situations: Three Case Studies

UNDG Guidance Note on Durable Solutions for Displaced Persons

6) Protection

ALNAP, 'Protection: an ALNAP Guide for Humanitarian Emergencies'

Handbook for the Protection of Internally Displaced Persons of Global Protection Cluster Working Group

Refugee Protection in International Law
<http://www.unhcr.org/publ/41a1b51c6.html>

7) Civil documentation

Asian Development Bank, Legal Identity for Inclusive Development

Uvin, P., Human Rights and Development, Kumarian Press, Bloomfield, USA, 2004 (not available in the CD-ROM)

8) Housing, land and property

Humanitarian Policy Group, 'Uncharted Territory: Land, Conflict and Humanitarian Action, Meeting Report'

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living', February 2007, United Nations General Assembly document reference A/HRC/4/18

FAO Training Manual, Land Tenure Alternative Conflict Management

GTZ Land Management: A Practical Guide to Dealing with Land Disputes

Centre on Housing Rights and Evictions (COHRE)

COHRE, A Place to Live: Women's Inheritance Rights in Africa

CAPRI, Land Rights for African Development

The United Nations Principles on Housing and Property Restitution for Refugees and Displaced Persons (The Pinheiro Principles)

Handbook on Housing and Property Restitution for Refugees and Displaced Persons: Implementing the Pinheiro Principles

Global Land Tools Network
<http://www.gltn.net/>

Norwegian NGO Coalition landrightswatch.net
<http://otto.idium.no/desotowatch.net/>

Oslo Governance Centre: land governance web site
http://www.undp.org/oslocentre/overview/land_governance.html

UNDP, Gender, Land Rights and Democratic Governance, Discussion Paper 2

9) Information

UNDP, Right to information - Practical Guidance Note

L. Curran, 'Ensuring Justice and Enhancing Human Rights: A Report on Improving Legal Aid Service Delivery to Reach Vulnerable and Disadvantaged People'

Report of the Special Rapporteur, Mr Abid Hussain, pursuant to Commission on Human Rights resolution 1993/45

10) Legal assistance

Links of the website of over 100 legal aid services in Africa, Asia, Australia, Europe, etc. <http://www.ptla.org/international.htm>

A practical guide to international treaty obligations in human rights, Southern Africa Litigation Centre

UNDP, (E. Wojkowska) 'Doing Justice: How informal justice systems can contribute', 2006

International Bar Association Code of Ethics

International Bar Association, 'International Code of Ethics' (1988)

Council of Bar and Law Societies of Europe, Code of Conduct for European Lawyers, (1988)

The Southern Refugee Legal Aid Network, 'The Nairobi Code: Model Rules of Ethics for Legal Advisors in Refugee Cases'

United Nations 'Basic Principles on the Role of Lawyers'

United Nations 'Basic Principles on the Independence of the Judiciary'

United Nations Code of Conduct for Law Enforcement Officials

The American Bar Association, 'Standards for the Provision of Civil Legal Aid' (2006)

11) Data protection

InterAction's Working Group on Protection, 'Data Collection in Humanitarian Response: A Guide for Incorporating Protection', 2005.

WHO consent form

UNICEF's, 'Ethical Guidelines: Principles for Ethical Reporting on Children

12) Capacity building

The Alliance For Non-Profit Management

http://www.allianceonline.org/about/capacity_building_and_1.page

The FAO Capacity Building Portal, with a searchable documents database

<http://www.fao.org/capacitybuilding/initiatives.jsp>

UNDP Capacity Development website

http://www.capacity.undp.org/index.cfm?module=ActiveWeb&page=WebPage&s=capacity_development

Institutional Reform and Change Management: Managing Change in Public Sector Organisations

Patronage or partnership: Local Capacity Building in Humanitarian Crises

13) Natural disasters

Hyogo Framework for Action 2005-2015, World Conference on Disaster Reduction (2 February 2005) UN Doc. A/CONF.20/L.3/Rev.1, para 4

Human Rights and Natural Disasters: Operational Guidelines and Field Manual on Human Rights Protection in Situations of Natural Disaster Available

ALNAP, 'Responding to earthquakes 2008 - Learning from earthquake relief and recovery operations',

Future floods of refugees: A comment on climate change, conflict and forced migration, NRC report

Internal Displacement Monitoring Centre , 'Displaced by disaster – a protection study' <http://www.internal-displacement.org/>

NRC position paper on climate change, the environment and the displacement

Global Land Tool Network Post-disaster Land Guidelines

Brancati, D., 'Political Aftershocks: the impact of earthquakes on intrastate conflict', Journal of Conflict Relations, vol 51 (5), 2007 (not available in the CD-ROM)

Hyogo Framework for Action 2005-2015, World Conference on Disaster Reduction (2 February 2005) UN Doc. A/CONF.20/L.3/Rev.1,

IDLO Manual on International Law and Standards Applicable in Natural Disaster Situations

14) Participation

UNHCR tool for participatory assessments in operations

ALNAP publication, Participation by Crisis-Affected Populations in Humanitarian Action: A Handbook for Practitioners

Brookings Institution Listening to the Voices of the Displaced: Lessons Learned

15) Strategy and programming

The Use and Abuse of the Logical Framework Approach

NRC Strategic Management Toolkit

EC Project Cycle Guidelines

NORAD, The Logical Framework Approach (LFA): Handbook for Objectives-Oriented Planning

UNDP Oslo Governance Centre, Democratic Governance Assessments http://www.undp.org/oslocentre/flagship/democratic_governance_assessments.html

16) Evaluation

NRC Evaluation Handbook

SIDA, 'Looking Back, Moving Forward - Sida Evaluation Manual'

Legal Aid Against the Odds

APPENDIX 4 – INDEX OF LINKS TO NRC DOCUMENTATION

Most of these are also available on NRC intranet.

Policy and Strategy

- NRC Policy Paper
- NRC Camp Management Policy
- NRC Shelter Policy
- NRC Education Policy
- NRC ICLA Policy
- NRC Emergency Food Security and Distribution Policy
- NRC Gender Policy
- NRC Protection Policy
- NRC Evaluation Policy
- NRC Position Paper – Climate Change
- Balance Score Card – Strategic Planning Tool
- Country Programme Strategies
- NRC Strategic Objectives 2007-2009
- NRC Strategy Map 2007-2009
- Strategic Partnership NRC/UNHCR
- Advocacy Strategy
- Human Resources Strategy

Key Programme Documents

- Security Instructions
- Camp Management Toolkit
- Advocacy Toolkit
- Evaluation Toolkit
- NRC Shelter Handbook
- NRC Education Handbook
- NRC Camp Management Handbook

Key Administrative Documents

- NRC Programmes Brochure
- NRC Code of Conduct for Staff
- Explanatory Notes to NRC's Code of Conduct
- NRC Employment Guidelines for National Staff
- Roles and Responsibilities Recruitment
- HIV/AIDS Policy for Staff
- Start-Up Handbook
- Anti-Corruption Guidelines
- Financial Handbook
- NRC Budgeting Instructions 2009
- Logistics Handbook
- Security Instructions and Crisis Management
- Exit Handbook

- The Donor Handbook
- The Strategic Management Toolkit
- The Generic Resource Text for Proposals (Applications and Concept Papers)

APPENDIX 5 – SAMPLE DOCUMENTS FROM ICLA PROGRAMMES

(Note: this is internal NRC material except the samples of public reports. It aims to provide ICLA practitioners with examples they can adapt to their own context and needs. Do not disseminate these materials outside NRC)

1. Sample workplan 12 months – Nepal
2. Sample workplan - abridged Pakistan EQ version
3. Sample training outline - Professional Responsibility for Lawyers
4. Sample staff guide on ICLA mandate
5. Sample review of civil documentation Sri Lanka
6. Sample MOU with local program partner-oPt
7. Sample Informed Consent Form – Verbal
8. Sample Informed Consent Form - communications materials
9. Sample Informed Consent Form – Children
10. Sample induction training agenda for junior lawyers etc – Nepal
11. Sample implementation partner contract (Georgia)
12. Sample ICLA target client slide
13. Sample ICLA registration update form – Nepal
14. Sample ICLA Office Manual Oct 2007 – Afghanistan
15. Sample ICLA newsletter – Nepal
16. Sample Court Referral Checklist
17. Sample Court Case Referral Guidelines
18. Sample client registration form - Uganda Sudan common form
19. Sample client referral form
20. Sample case closing letter to client

21. Research and recommendations on HLP issue (Georgia)
22. Relationship Formal & Informal Justice Systems in Afghanistan
23. Legal Assessment of HLP Ownership Rights and Property Law related to Palestinians Refugees in Lebanon
24. EC Legal Aid Manual Nepal



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