



**Global Protection Cluster
Task Team on Law and Policy (TTLP)**

**Final Project Document:
Legal aid in humanitarian settings
(first phase)**

June 2022

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1. Background and objectives of the project

Access to justice is understood as the “*ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards and fundamental to the protection of human rights*”. Efforts to ensure full and equal access to justice for all, including populations affected by humanitarian and displacement crises should be at the centre of a humanitarian response. Their ability to access justice is essential to prevent and respond to protection concerns but they often lack or have very limited access to justice due to the collapse or malfunctioning of institutions and infrastructure following armed conflict, disasters or pandemics. Displaced persons face a number of challenges ranging from discriminatory social and cultural norms and practices, inadequate national laws, malpractice and abuse in the justice system and public administration and lack of political will of authorities to act.¹ The UN Principles and Guidelines on Access to Legal Aid in Criminal Justice Systems,² mention IDPs’ and refugees’ needs explicitly, therefore recognizing these groups’ needs and the need for taking specific measures to enable equal access to legal aid for them.

Legal and policy frameworks can either provoke or perpetuate displacement and discrimination, or serve as instruments of protection and empowerment. Either way, people affected by humanitarian and displacement crises require assistance to understand, interpret and navigate these frameworks as well as related procedures and systems. The timely and adequate provision of legal aid is therefore key to the implementation of law and policy for the benefit of affected populations

Legal aid is a vital means to access justice. It can also be absolutely essential to claim other rights, access services and even humanitarian assistance. It can be defined as legal information dissemination, “*legal advice, assistance and/or representation at little or no cost³ to the person designated as entitled to it. It encompasses services provided by lawyers and paralegals in criminal, civil and administrative matters to individuals who are poor, marginalized, or otherwise in need of special legal protection (including people affected by humanitarian and displacement crises), to enable them to exercise their rights. This includes the provision of legal advice, representation in courts or proceedings under other State tribunals [or customary and religious institutions], assistance in drafting of documents and pleadings, mediation, assistance in navigating the rules and procedures of State administrative agencies, along with a range of other services.*”⁴ Given the dire situation in displacement and humanitarian contexts, legal aid actors often extend their services to other activities that aim to affect the legal environment, such as advocacy, capacity building, law and policy, and coordination tasks.

The need for legal aid in displacement and humanitarian contexts is quite wide. Legal aid interventions are crucial in ensuring the Centrality of Protection throughout the humanitarian response, to support affected populations not only in accessing justice but also protection, humanitarian assistance and public services. Protection activities are key to enhancing a protection environment that mitigates and addresses immediate physical threats, and is conducive to longer term durable solutions that are particularly important - and often unavailable to vulnerable groups like survivors of gender-based violence and children. The provision of accessible legal aid is required under Minimum Standards for

¹ GPC Handbook on IDP protection pp. 312-328.

² See GA Res. 67/187 of 2012, available here: https://digitallibrary.un.org/record/748365?ln=zh_CN, in particular Principle 10. Equity in access to legal aid (paras. 32 - 33); Guideline 11. Nationwide legal aid system (para. 57).

³ Strictly at no cost in the case of legal aid services provided by humanitarian actors.

⁴ UNDP-UNODC Global Study on Legal Aid — Global Report, p. 12.

protection in emergencies in a number of specific areas, including GBV and Child Protection⁵, as well as contributes to SDG 16 and the overall aim of “leaving no-one behind”.

Without legal support, IDPs in particular are faced with denial of rights including the lack of a legal identity, protection orders, the right to employment, education and housing, or of access to health, and other social services, lengthy, expensive and unclear procedures related to status in host countries, property restitution, land disputes, evictions, as well as risks of being unlawfully detained with no due process and respect of other human and civil rights, and challenges to access legal advice and defence in criminal matters. Legal aid may also be required by people affected by humanitarian crises who are facing the adjudication of civil matters, in particular family law, where the formal or informal legal systems in which they seek justice may be unfamiliar with the laws or customs of their countries of origin (e.g., in the cases of refugees or asylum seekers) or places of origin (e.g., in the cases of IDPs) and where conflict of laws or jurisdictional issues may arise.

Unfortunately, legal aid does not always receive the attention it deserves as a fundamental field of humanitarian work, despite the resulting gaps in protection and assistance in situations where this is overlooked and the longer term consequences in durable solutions. UNDP-UNODC’s Global Study on Legal Aid noted that:

“There is limited availability of specialized and targeted legal aid provision for specific vulnerable populations, such as internally displaced people and refugees. Specialized services, such as those for children and women, can help ensure that services provided are tailored to the specific needs of target groups.”⁶

The study also noted that there is a significant gap in the availability of data on legal aid. This data is critical not only in identifying where in the system the problems lie, but so that policymakers and advocates can develop streamlined and targeted solutions to address those problems.⁷

Protection Clusters, including the Areas of Responsibility (AoR), have an important role to play in ensuring that people in humanitarian and displacement settings can overcome existing legal obstacles to access justice, enjoy their rights - including access to services and humanitarian assistance - as well as access remedies for legal disputes.

The current strategy (2021-2024) of the Global Protection Cluster’s Task Team on Law and Policy (TTLP)⁸ focuses on promoting and supporting the implementation of relevant legal and policy frameworks to improve affected people’s access to justice and enjoyment of their rights. Gathering a comprehensive evidence base and providing technical support to field Protection Clusters complete, including Area of Responsibilities focal points, complement TTLP’s strategic approach.

The objectives of this project are:

- improving the capacities of the Protection clusters, including the Areas of Responsibility and participating agencies, development, humanitarian, peace and human rights actors, to understand and assess the legal aid needs in their countries of operation, address existing gaps

⁵ See the inter-agency GBV in Emergencies Minimum Standards, Standard 10 – Justice and Legal Aid; and the Child Protection Minimum Standards, Standard 20-Justice for children

⁶ UNDP-UNODC Global Study on Legal Aid, p. 3.

⁷ UNDP-UNODC Global Study on Legal Aid, p. 164.

⁸ <https://www.globalprotectioncluster.org/themes/law-and-policy-on-internal-displacement/>

and promote legal aid interventions so people affected by humanitarian crises have access to justice and can enjoy their rights

- enhancing the GPC TTLP's ability to demonstrate the need to integrate legal aid in humanitarian response from the outset
- developing knowledge products and tools for the protection clusters at field level to address legal aid needs collectively.

2. Governance of the project and working arrangements

In its capacity as TTLP lead and administrator of the consultancy, UNHCR supervised the consultant and approved finalized outputs.

Legal aid in Humanitarian settings Task Force ("Legal Aid Task Force"): A technical Steering Committee composed of selected GPC TTLP members specialized in legal aid programming, including GPC Ops Cell, representatives from the AoRs, supported the development and implementation of the project (see Annex 1. List of Consultations)

Role and responsibilities:

- Provide inputs to the methodology and timeline of the consultancy
- Feed the desk review with relevant secondary sources
- Provide inputs to the KII questionnaire for the internal and external consultation process
- Liaise ad hoc with Protection Clusters' and AoRs' coordinators to ensure their participation in the questionnaire on coordination and funding and in the testing of the legal aid assessment tool
- Review and endorse consultancy products

GPC Task Team on Law and Policy and other GPC-related bodies: The members of the Task Team on law and policy and other GPC-related bodies (the GPC Strategic Advisory Group, various Areas of Responsibilities, the Information Management Working Group and other GPC Task Teams) have been regularly updated and opportunities for input/feedback have been sought as relevant.

Role and responsibilities:

- Feed the desk review with relevant secondary sources
- Participate to the internal consultation as KIIs
- Provide inputs to consultancy products

Role of UNHCR: Different sections and divisions within UNHCR have been consulted to ensure that good practice around legal aid for the populations UNHCR serves is mainstreamed and links are made with relevant efforts of the organization in this area (see Annex 1. List of Consultations).

Working arrangements

- Ad hoc meetings of the Legal aid Task Force were called by the consultant/UNHCR. All organizations have been sharing internal and externally available resources with the consultant. Each organization indicated which resources could be shared among members of Task force and uploaded in the Virtual Library and which were shared with the consultant and remained of internal nature;

- UNHCR and the GPC Ops Cell supported and promoted the engagement of Protection Clusters' and AORs' (co-)coordinators.

3. Project deliverables

In order to fulfill the above mentioned objectives, the Legal Aid Task Force decided to produce the following deliverables:

- A project concept note
- A virtual library on legal aid in humanitarian settings
- A Conceptual Framework
- Legal aid Analysis Framework (Analysis Plan and Guidance)
- Survey on key aspects of legal aid in humanitarian settings

A detailed calendar of activities and deliverables is contained in Annex 2. The table below provides an overview of the key milestones of the project.

Key milestones	Indicative timeframe
Concept Note	23 rd December 2021
Virtual Library	23 rd February 2022
<ul style="list-style-type: none"> - Conceptual Framework - Legal Aid Analysis Framework - Survey 	6 th April 2022
Final Project Report	30 th May 2022

4. Project Concept Note

The Project Concept Note (Annex 3) outlines the scope of the project, clarifying the nature and methodology proposed to develop each of the agreed-upon deliverables. The note also describes the consultant's working methods.

The document is based on the consultancy's Terms of Reference and on a series of bilateral interviews with the members of the Legal Aid Task Force as well as key UNHCR staff. The list of focal points from each organization consulted for the note is contained in *Annex 1*. Main reference document for the project, the concept note was shared widely with external stakeholders, including donors.

5. Virtual Library on legal aid in humanitarian settings

The library served as a platform to collect all relevant documentation related to legal aid organized in the following folders:

- UN Framework and international human rights standards related to legal aid and access to justice
- Training and capacity building material (including guidance notes and guidelines)
- Legal aid assessment tools used by different organizations
- Key reports on legal aid (including legal aid assessments of different countries)
- Case studies, evaluations, compilations of best practices
- Deliverables of the Legal aid in humanitarian settings consultancy

UNHCR will facilitate the creation of the virtual library accessible to all GPC members (including AoRs) on the new GPC website to be launched in June. The Library will be a permanent repository of knowledge, easy to access and to be continuously updated by all organizations of the GPC TTLP and partners.

6. Conceptual Framework

The purpose of the Conceptual Framework (Annex 4) is to consolidate standard terminology related to legal aid in humanitarian settings by identifying common language and creating a shared understanding among the international and national humanitarian, development, peace and human rights actors around the work on legal aid and justice interventions - while preserving and respecting the identity, richness, specificity, relevance and expertise of each organization.

The Conceptual Framework provides:

- Definitions of legal aid, access to justice, legal aid needs, legal capability and legal aid actors;
- Definitions of “direct legal aid service provision” and “interventions aimed at creating/strengthening a legal aid conducive/enabling environment” in humanitarian settings;
- An overview of the flow of direct legal aid service provision and its main components,
- An overview of interventions aimed at creating and/or strengthening an environment that is conducive to legal aid;
- An overview of areas of law and thematic focus;
- An overview of possible target groups of legal aid interventions.

The document is based on a desk review of the existing concepts, definitions and frameworks on legal aid in humanitarian settings as well as a series of key informant interviews with focal points of international and national organizations working in this sector.

The document can be used as a reference when conducting the joint analysis of the legal aid and access to justice landscape through the Legal Aid Analysis Framework.

7. Legal Aid Analysis Framework

The TTLP recognized the need for:

- ___ Going beyond each organization’s analysis efforts, through the adoption of a common analysis tool (each agency has its own legal aid landscape assessment) and a common terminology (each type of actor involved in justice/legal aid intervention speak a different language when referring to legal aid).
- Creating better coordination through a joint tool that can facilitate constructive dialogue between humanitarian, development, human rights and peace actors involved in the legal aid and justice sphere, anchored in a solid partnership with national counterparts.
- Building on existing initiatives endorsed at the global level, including the Protection Analytical Framework (PAF)⁹.
- Strengthening synergies between legal aid and other sectors including the general protection sector.
- Investing in collective analysis, understanding the context before and during the design and implementation of any intervention, jointly reflecting on existing national capacities to ensure sustainability.

The Legal Aid Analysis Framework is a tool designed to assist Protection Clusters and AoRs (co-)coordinators, international as well as national and international development, human rights, peace and humanitarian organizations in conducting a comprehensive analysis of the legal aid landscape in a given country or territory affected by a crisis.

The Legal aid analysis framework is:

- A practical matrix that will help identify and organize available quantitative and qualitative data on legal environment, justice system, legal aid needs, existing capacities and responses in a country or territory affected by a crisis;
- A human rights-based tool that facilitate joint analysis of the legal aid landscape to achieve more solid, evidenced-based analytical conclusions that can be used to foster collective and coordinated response, in dialogue with national counterparts;
- A simple framework that may help identify the linkages between legal aid and justice sector and other sectors;
- If used over time, the tool could serve to monitor changes in experience and behavior of individuals and communities against a backdrop of legal services provided prior, during, after a crisis.

The Legal Aid Analysis Framework consists of two documents:

- Legal Aid Analysis Framework (also referred here as the “Analysis tool” or the “tool”, Annex 5), which is available in Annex 5. The Analysis tool is structured as follows:
 - Excel sheet 1: Visual/diagram of the overall structure and brief description of pillars
 - Excel sheet 2: Detailed structure: pillars, sub-pillars, categories

⁹ The PAF was initiated by the USAID BHA-funded IRC-DRC Results-based Protection Analysis Project to contribute to collective efforts of improving and streamlining protection analysis. It was developed together with and with the full support of the Information and Analysis Working Group of the Global Protection Cluster. It has been endorsed by the Global Protection Cluster. <https://www.globalprotectioncluster.org/2021/08/11/protection-analytical-framework/>

- Excel sheet 3: Analysis plan: macro-analytical questions, granular questions, suggested data set and resources
- A Guidance (Annex 6): is divided into two parts: Part 1 provides users with the theoretical and conceptual background to the Legal Aid Analysis Framework, outlining its purpose, structure and logic. Part 2 is the practical section of this guidance, which provides a step-by-step guide on how to use the tool, clarifies its intended audience and suggests criteria on how to select the best workflow.

Methodology: How was the Legal Aid Analysis Framework designed?

The first version of the tool was designed through a review of existing tools and training material designed and used by international and national legal aid organizations. The sources of the desk review are organized in the Virtual Library. The tool was then discussed with 23 representatives of international organizations working on legal aid and access to justice through semi-structured interviews that took place in March-April 2022 (Annex 7, Consultation Report). The final version of the tool, together with the accompanying Guidance Note and Conceptual Framework, was validated during a workshop on 28 April 2022 and presented to field clusters' and AoRs' colleagues during a meeting of the Task Team on Law and Policy in May 2022 before being tested at the country level.

8. Survey on key aspects of legal aid in humanitarian settings

A survey was developed to explore the following aspects of legal aid programming in crisis settings:

- ❖ Coordination: understand where legal aid sits in the existing international and national coordination structures at country level;
- ❖ Partnership: assess the level of partnership and collaboration between Protection Clusters, international legal aid organizations and national legal aid actors;
- ❖ Funding: understand funding streams of legal aid, mapping legal aid position and scope within main donors' portfolios;
- ❖ Challenges and good practices: map key difficulties and lessons learnt related to legal aid interventions;
- ❖ Priority areas for support: capture interest and potential support needs on legal aid programming and advocacy by Protection Clusters (co)coordinators, Area of Responsibility focal points, international and national legal aid actors.

The survey was shared with Protection Cluster (co)coordinators and field staff. A total of 100 responses were received representing a total of 31 countries, 25 countries affected by internal displacement and 5 refugee crisis. Representatives from international non-governmental organizations, national legal aid civil society organizations and UN agencies replied to the survey; development, humanitarian and human rights actors responded to the survey. The results of the survey were shared and validated in a workshop with the members of the Legal Aid Task Force, the project steering committee created under the TTLP.

Findings of the survey were subsequently presented and validated with (co-)coordinators and members of field protection clusters, GBV and HLP AoRs as well as Information Management Working Group

attending a dedicated meeting of the TTLP in May 2022. In addition, a series of key informant interviews with donors' representatives supporting legal aid were conducted in May 2022 to further explore the support provided by donor States to legal aid (not just financial but also political / advocacy / partnerships).

A report summarizing the main findings stemming from the survey, complemented by information obtained through a series of key informant interviews conducted between February and May 2022 is available as Annex 8.

9. Conclusions

In line with its 2021-2024 strategy, the GPC Task Team on Law and Policy continues to work towards achieving the following objectives:

1. Developing a comprehensive evidence base for the TTLP and its members' strategic engagement at global and national level in this area;
2. Tailored technical support to field protection clusters and other relevant stakeholders on law & policy engagement;
3. Enhanced global and regional attention to implementation at the national level of laws and policies for the protection of people affected by humanitarian crises.

The set of human rights-based tools developed through this project helped gathering evidence around needs of the Protection Clusters, AoRs and international and national organizations working on legal aid and access to justice programming in crisis settings. In particular, a number of area of support were highlighted during consultation and through the data collection:

- **Common Terminology:** Enhance synergies between development, humanitarian and human rights actors working on legal aid through the use of common terminology related to legal aid, joint analysis of legal aid landscape and use of tools facilitating coordinated responses.
- **Joint Analysis for coordinated response:** Promote country level joint analysis of legal framework, including through the GPC TTLP Legal aid analysis toolbox, as a basis for humanitarian response and link it to Protection Analysis Framework, where relevant.
- **Strategic funding mobilization:** Advocate for multi-year flexible funding, to be able to respond to changing legal aid needs in the country, and to tackle systemic, long- term processes.
- **Effective and more inclusive coordination:** Ensure that national legal aid actors are represented in the existing development, humanitarian and human rights coordination spaces to enhance joint understanding of existing national capacities and responses and ensure that their views are taken into account when planning and implementing activities. Ensure effective coordination around legal aid and access to justice and promote a more active participation of national legal actors in existing development and humanitarian coordination spaces.

- **Mainstreaming of Legal awareness:** Integrate information dissemination and awareness on the right to legal aid as key component of humanitarian response, including in disaster preparedness and rapid response mechanism instruments.
- **More integrated approaches:** Foster integration between legal aid and other sectors, to ensure legal aid is instrumental to access and enjoy a broad range of rights.
- **Strategic advocacy on human rights standards related to legal aid provision:** Ensure quality and effective legal aid services are delivered to those in need in line with international human rights standards avoiding any politicization or monopoly of legal aid provision.
- **Identification of good practices:** Identify good practices and lessons learned on delivering legal aid services, including through the development of national, regional and global specialized networks of legal aid providers.

10. Recommendations for the second phase of the project

As a follow up to this project, in 2022 and 2023 the TTLP will aim to:

Common terminology:

- Translate and disseminate the Conceptual Framework on Legal aid in humanitarian settings
- Support the development of a training on common terminology and concepts on legal aid in humanitarian settings
- Promote the integration of aspects of the Conceptual Framework on legal aid in humanitarian settings in existing capacity building material, including the interoperability between PAF and Legal Aid Analysis Framework (glossary, trainings, conceptual framework)

Joint analysis for coordinated response:

- Translate and disseminate the Legal Aid Analysis Framework
- Test, validate and finalize the tools in pilot countries
- Analyze the results of the testing through joint learning and feedback platform
- Develop a training package on Legal Aid Analysis Framework (including interoperability with PAF)
- Proceed with digitalization of the Legal Aid Analysis Framework

Strategic funding mobilization:

- Finalize a legal aid donor mapping exercise
- Conduct a global strategic workshop with key donors and Legal Aid Task Force to profile legal aid in humanitarian settings (including through the dissemination of the Survey Report, the tools developed in the first phase of the project and the results from the testing phase once ready)

Effective and more inclusive coordination:

- Organize a series of workshops aimed at enhancing coordinated response in legal aid and access to justice between humanitarian, development, peace and human rights actors

- Follow up on UNDP/UNHCR Global initiative (building on the existing initiatives around Nexus programming at country level, workshop on learning about UNDP/UNHCR cooperation, access to justice workshop)
- Explore synergies with national legal aid actors to enhance their representation in global, regional, national coordination structures

Coordination and Learning:

- Conduct a participatory exercise/ create a community of practice to identify good practices and lessons learned on specific aspects of delivering legal aid services in humanitarian settings (including through joint learning platform, building on the existing UNDP/UNHCR learning exercises)
- Strengthen the leading role of the GPC TTLP Legal Aid Task Force (including through organization of thematic meetings, learning exercises, etc.)
- Explore the possibility of creating a global specialized network of legal aid providers (within the GPC TTLP Legal Aid Task Force and beyond/across the GPC, with linkages with the GRF legal pledge), including with dedicated focus on justice needs for women and children