



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

### Concept Note

#### Webinar: *Legal aid to protect the right to legal identity*

*Date: 18 May 2023, 10.30-12.30 (Geneva time)*

Everyone has the right to be recognized as a person before the law<sup>1</sup>. In recognition of the importance of this right, the 2030 Agenda for Sustainable Development established a specific target within the Sustainable Development Goals (SDGs) - Target 16.9 – on legal identity for all. Legal identity is widely acknowledged to be catalytic for achieving at least ten SDGs.<sup>2</sup> The United Nations Legal Identity Agenda Task Force (UNLIA TF) (which is formerly known as the Legal Identity Expert Group (UN LIEG))<sup>3</sup> defined legal identity as the basic characteristics of an individual's identity. e.g. name, gender, place and date of birth conferred through registration and the issuance of a certificate by an authorized civil registration authority following birth. States are required to adopt a holistic approach to the registration of vital events<sup>4</sup> as well as “a systematic and perpetual mechanism for ensuring legal identity for all”.<sup>5</sup>

In line with international law, States have the responsibility to recognize all individuals present on their territory as a person before the law, without prejudice to nationality (or lack thereof), legal status, gender or duration of stay. In almost all humanitarian settings vital event registration systems become poorly operational and sometimes entirely collapse. Conflicts, public health emergencies and disasters brought by natural hazards which often result in population displacement create major challenges for civil registration centers, strains governments resources and often disrupts continuity of government systems and services.<sup>6</sup>

---

<sup>1</sup> 1948 Universal Declaration of Human Rights, Articles 6 and 15; 1951 Convention on the Status of Refugees, Articles 25 and 27; 1954 Convention on the Status of Stateless Persons, Articles 25 and 27; 1961 Convention on the Reduction of Statelessness, Articles 1-4; 1965; 1969 International Convention on the Elimination of All Forms of Racial Discrimination, Article 5(d)(iii); 1966 International Covenant on Civil and Political Rights, Article 24; 1979 Convention on the Elimination of All Forms of Discrimination Against Women, Article; 1989 Convention on the Rights of the Child, Articles 7-8; 1990 International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families, Article 29; 2006 Convention on the Rights of Persons with Disabilities, Article 18.

<sup>2</sup> Paragraph (2) and (5) of the “Concept note developed by the United Nations Legal Identity Expert Group”. Available at: <https://unstats.un.org/legal-identity-agenda/documents/UN-Strategy-for-LIA-draft.pdf>

<sup>3</sup> Recognizing that the issue of legal identity for all is of paramount importance in terms of fulfilling the Sustainable Development Agenda, the UN Deputy Secretary-General initiated the establishment of the UN Legal Identity Expert Group (UN LIEG) in September 2018, co-chaired by the Department of Economic and Social Affairs of the UN Secretariat (UN DESA), UNDP and UNICEF. Paragraph (8) of the Concept note in footnote 2.

<sup>4</sup> A holistic approach to a legal identity system implies that every new legal identity is introduced in the identity system when birth is registered, and it is retired in the system right after death. Paragraph (76) of the “Implementation of the United Nations Legal Identity Agenda: United Nations Country Team Operational Guidelines”. Available at: <https://unstats.un.org/legal-identity-agenda/documents/UNCT-Guidelines.pdf>

<sup>5</sup> Paragraph (19) of the Concept note in footnote 2.

<sup>6</sup> Civil Registration and Legal Identity in Humanitarian Settings, by Ann Livingston.



Civil registration<sup>7</sup> is a tool that can facilitate protection and solutions for displaced populations, as it establishes legal identity, family lineage and contributes to prevent the risk of statelessness.<sup>8</sup> Access to registration and identification is not only a precondition to enjoy rights such as freedom of movement, right to health<sup>9</sup>, education and political participation, but also a prerequisite to access basic services provided by state authorities or by humanitarian, development and human rights organizations. Legal identity documentation is also crucial to fully access, enjoy and protect housing, land and property (HLP) rights, either by proving ownership and accessing restitution, compensation for lost/destroyed/occupied HLP.<sup>10</sup> Processes to issue civil and legal documentation are contingent on prerequisite documentation and often, displaced people are unable to produce such documents because they lost them or never had them in the first place. Without vital events registered, displaced people face considerable long-lasting challenges. For example, the lack of marriage, death and divorce certificates can have implications on custody and inheritance claims, among other legal issues. In some contexts, identity documents are key to access decent and legal employment opportunities, secure a more stable life and gain enough economic strength to secure livelihood opportunities.

Displaced persons often face a mix of legal, bureaucratic and practical challenges in proving their legal identity. These include unaffordable costs, lack of information about procedures and requirements to issue, renew, recover their credentials, and discrimination based in law or social practices. In some cases, identity credentials can only be obtained in the place of origin and displaced persons cannot make the journey because of security concerns or lack of resources. The destruction of identity and civil registration offices and records as a result of conflict or disaster means that foundational documents may be missing. In some contexts, legal identity credentials may be issued by non-state actors, which may cause displaced population difficulties in registering other vital events, crossing the borders or accessing rights and services due to lack of recognition or legitimacy.

Legal aid and access to justice programmes support displaced persons obtaining, renewing, recover and safeguard their legal identity and civil documents. Some interventions focus their interventions on the provision of direct legal aid services to those affected by displacement so they can be aware of their rights and obligations, navigate complex procedures, and, where needed, be represented in court to obtain legal and civil documents. Other initiatives aim at providing support to duty bearers to overcome systemic changes either by advocating for policy, legislative or administrative changes, or by strengthening their capacities so they can fulfil their obligations. Enhancing the role of national civil society organizations which provide direct legal aid and technical support, monitor displaced populations' access to rights and advocate through national platforms/fora is another strand of action of legal aid programmes in humanitarian settings, contributing through strategic partnership and transfer of skills, knowledge and solutions to securing legal identity of displaced situation.

---

<sup>7</sup> Civil registration is defined as the continuous, permanent, compulsory and universal recording of the occurrence and characteristics of vital events pertaining to the population, as provided through decree or regulation in accordance with the legal requirement in each country. Civil registration is carried out primarily for the purpose of establishing the documents provided by the law. <https://unstats.un.org/legal-identity-agenda/>

<sup>8</sup> Paragraphs (65 and 67) of the "Implementation of the United Nations Legal Identity Agenda: United Nations Country Team Operational Guidelines". Available at: <https://unstats.un.org/legal-identity-agenda/documents/UNCT-Guidelines.pdf>

<sup>9</sup> <https://www.nrc.no/resources/reports/documentation-and-access-to-health-challenges-and-opportunities-for-displaced-persons/>

<sup>10</sup> In cases where civil documentation is missing, expired, incomplete or not updated – opportunities to access and exercise HLP rights, in particular related to inheritance, may be impeded and claims outcomes affected. Rights holders may not be able to transfer property titles nor access assets through inheritance. In some contexts, these challenges have the potential to disproportionately affect women who primarily access HLP through inheritance and marital property and more specifically war widows, who if unable to acquire a death certificate for their dead or missing husbands, will be blocked from accessing inheritance shares from property registered in their husband's names. See also: <https://www.nrc.no/resources/reports/who-are-you/>



This webinar is part of learning events aimed to inform a collection of good practices on legal aid in humanitarian settings, particularly focusing on three aspects deserving attention which were highlighted in a field survey conducted by the Global Protection Cluster Task Team on Law and Policy (GPC TTLP) last year:<sup>11</sup>

- a. enhance synergies between development, humanitarian, human rights and peace actors in the design and implementation of access to justice and legal aid interventions in humanitarian contexts;
- b. build sustainable partnerships with national legal aid actors (civil society, private sector, duty bearers) for more sustainable access to justice and legal aid interventions in humanitarian contexts;
- c. design and implement legal aid and access to justice interventions aimed at addressing and resolving legal aid needs of hard-to-reach populations.

The webinar aims at discussing the following guiding questions (main country focus: Myanmar and Syria):

- ✓ *How have humanitarian, development, human rights and peace actors coordinated their efforts to design and implement more effective, collaborative and joint legal aid interventions aimed at securing legal identity of displaced population in humanitarian settings?*
- ✓ *How have protection actors enhanced the sustainability of their legal aid and access to justice interventions related to legal identity credentials through partnership with national legal aid actors (civil society, private sector, Bar Association, etc...)?*
- ✓ *Were legal aid interventions able to address and respond to the needs of hard-to-reach population in relation to their legal and civil documentation? How?*
- ✓ *What are some of the most common challenges, key lessons learnt and good practices that can be shared in all these areas (humanitarian/development cooperation, working with local partners, addressing the needs of hard to reach populations)?*
- ✓ *What tools are available to support those interested to do more in this area?*

---

<sup>11</sup> The field 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 crises. The survey was complemented by a series of KII with donors' representatives. The Study Report as all other tools produced in the framework of the Project are available at: <https://www.globalprotectioncluster.org/Legal-Aid-in-Humanitarian-Settings> .