



Fostering protection and durable solutions through legal aid in humanitarian settings

ICVA-INTER SOS webinar (4 March 2021)

Summary

Introduction

On 4 March 2021, ICVA and INTER SOS organized a webinar based on **INTER SOS’ 2019 Global Refugee Forum pledge fulfilled** with the publication of the **“Provision of Legal Aid in Humanitarian Settings Lessons Learned Paper¹”**. Gathering over 60 participants, Member States, NGOs, the UN system, and academia, the webinar² discussed how legal aid contributes to achieving protection and durable solutions for displaced populations with key examples of legal aid, counseling and provision when dealing with sexual and gender-based protection, child protection, and other protection cases, as well as the importance of legal documentation for access to humanitarian aid and services for all forcibly displaced population groups. The participants also focused on the challenges faced by legal aid actors and on concrete recommendations for humanitarian agencies, leadership as well as donor governments to ensure access to legal aid. For donor governments, those recommendations include the call for support with longer-term, multi-year funding for legal aid services, as well as to provide political and advocacy support via embassies for conflict and crisis-affected people’s rights to participate in political and peace-building processes, including in their rights to access justice and legal aid.

This webinar was framed in the context of the implementation of the Global Compact on Refugees, the follow-up to the Global Refugee Forum and the roadmap for the High-Level Officials Meeting in 2021. It also reflected INTER SOS’ and ICVA’s engagement in those processes.³ A particularly important objective was to contribute to this year’s momentum towards the December High-Level Officials Meeting and to help galvanize further pledges in the area of legal aid for the second Global Refugee Forum.

Overview of exchanges

The meeting was structured around a set of short presentations before opening the floor for comments. Stakeholders highlighted key substantive areas to be considered, which are summarized below:

Ms. Cecilia Jimenez-Damary, the UN Special Rapporteur on the Human Rights of internally displaced persons drew on the findings of the INTER SOS report related to legal awareness, improving counseling, assistance, and representation for forcibly displaced persons in humanitarian settings. She noted that the Special Rapporteur on the independence of judges and lawyers describes legal aid as *“both a right in itself and an essential precondition for the exercise and enjoyment of a number of human rights, including the rights to a fair trial and to an effective remedy”* and that her 2013 report recognises legal aid as *“an essential component of a fair and efficient justice system that is founded on the rule of law⁴”*. Ms. Jimenez-Damary also made the link to the **Sustainable Development Goals** (SDGs) in promoting peaceful and inclusive societies and promoting access to **justice for all** and building effective, accountable, and inclusive institutions. She also reminded that the **Guiding**

¹ INTER SOS, *Provision of legal aid in humanitarian settings*, 24 February 2021: <https://www.intersos.org/en/provision-of-legal-aid-in-humanitarian-settings-intersos-latest-report/>

² See the concept note for this webinar: <https://www.icvanetwork.org/resources/icva-and-intersos-webinar-concept-note-4-march-2021>

³ See for more details on ICVA’s pledge, 2019 Global Refugee Forum: <https://www.icvanetwork.org/resources/icvas-pledge-2019-global-refugee-forum>

⁴ The Office of the High Commissioner for Human Rights, *“Legal aid, a right in itself” – UN Special Rapporteur*, 30 May 2013: <https://newsarchive.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=13382&LangID=E>



Principles on Internal Displacement⁵ highlight a wide spectrum of human rights, referring to the prevention of arbitrary displacement, the right to an effective remedy, and the need for competent authorities to ensure compensation for damaged or lost property and possessions.

For its part, the **Inter-Agency Standing Committee framework on Durable Solutions for Internally Displaced Persons**⁶ (IDPs) particularly highlights the importance of effective remedies for displacement-related violations, including access to reparations and to information about the causes of violations, as part of durable solutions. The Special Rapporteur also reflected on the findings from her forthcoming 2021 report to the Human Rights Council on housing, land, and property rights⁷, which underline the importance of legal services to assist IDPs to protect and improve security of tenure as well as to obtain civil documentation necessary to establish their housing, land, and property, inheritance, property restitution and compensation claims and to encourage the signature of formal lease agreements to protect tenure.

Legal services can also be a direct channel to ensure the provisions of the Guiding Principles related to informing, involving, and associating **IDPs in decision making** and program implementation affecting their lives. An important recommendation for the webinar participants was to help better **map, advocate for, support, and strengthen legal aid systems and services for vulnerable displaced populations**.

Ms. Christina Nisha, Global Protection Advisor at INTERSOS, reminded that the **Global Compact on Refugees (GCR)** outlined a framework for predictable and equitable responsibility-sharing, where durable solutions (integration of refugees in host countries, resettlement, and complementary pathways in third country or voluntary repatriation in safety and dignity) can only be achieved through international cooperation. The GCR highlights the relevance of legal instruments and status for forcibly displaced populations. Ms. Nisha presented the key findings of the report, based on INTERSOS' work in Afghanistan, Cameroon, Iraq, Jordan, Lebanon, and Yemen. A major lesson is that legal awareness of asylum seekers and refugees fleeing persecution is one of the foundational activities in achieving durable solutions, including through access to **employment and livelihoods, residency status, as well as avoiding the risk of deportation or detention**. INTERSOS provides **four key legal aid services** that are all relevant both to durable solutions and the protection response as a whole: legal representation, legal awareness, legal assistance, and legal counselling.

INTER SOS experience in **building local capacities is crucial, including of both lawyers and local authorities**, with the purpose of influencing legal reforms and policy shifts. As an example, in Cameroon, INTERSOS provided training for the Ministry of Social Affairs and the Ministry of Women and Family. In Lebanon, INTERSOS ran a workshop for local authorities on legal residency and legal documentation, workshops of the Sharia Court and with judges and internal security forces. However, in many contexts, access to legal aid remains **challenging**. Indeed, legal assistance can **be politically sensitive**, sometimes resulting in security issues or denial of access. Another challenge is **lack of resources** for legal systems, which sometimes results in people having to pay for services that should be free and accessible. The **COVID-19 pandemic** and lockdowns increased protection concerns as well. Finally, INTERSOS highlighted some of the report's **recommendations** to humanitarian agencies, relevant to protection and durable

⁵ The Guiding Principles on Internal Displacement, (E/CN.4/1998/53/Add.2), 11 February 1998:

<https://www.ohchr.org/EN/Issues/IDPersons/Pages/Standards.aspx>

⁶ IASC Framework on Durable Solutions for Internally Displaced Persons, 5 April 2010:

<https://interagencystandingcommittee.org/other/iasc-framework-durable-solutions-internally-displaced-persons>

⁷ Housing, land, and property issues in the context of internal displacement – Report of the Special Rapporteur on the human rights of internally displaced persons, Cecilia Jimenez-Damary, Human Rights Council

Forty-seventh session, 21 June–9 July 2021 (A/HRC/47/37): <https://reliefweb.int/report/world/housing-land-and-property-issues-context-internal-displacement-report-special>



solutions: Engage in advocacy to raise awareness on legal aid in humanitarian settings; Build community engagement as well as relationships with national and local authorities to facilitate legal services work; Enhance the security of staff and beneficiaries and advocate for law and policy reform; When already engaged in legal work, improve the geographical coverage, including through mobile legal services units, and exploring and expanding remote provision of legal aid when capacities and access allow. To humanitarian leaders, the report recommends to: Support humanitarians' legal aid work through high-level advocacy for law and policy reforms; Engage the leadership of other relevant clusters (e.g. food security, education) – not just the Protection Cluster; Support the engagement of national and local legal aid organisations and lawyers in humanitarian coordination mechanisms. Moreover, **donor governments** should **support longer-term, multi-year flexible funding for legal aid services**; Provide political and advocacy support via embassies for conflict and crisis-affected people's rights to participate in political and peace-building processes, including in their rights to access justice and legal aid.

Mr. William Chemaly, Global Protection Cluster Coordinator highlighted that, sometimes, even if there is political will, the system cannot cope with the number of legal cases that needs to be dealt with, showing the dire need for **capacity strengthening of legal aid**. The wider sense of justice and finding solutions to conflicts are also important and need to be accompanied with a cultural change in legal and political narrative at country level.

Structural approaches exist within the cluster system, in contexts such as in the Occupied Palestinian Territory and Iraq. Half of the clusters do know national platforms that engage in legal assistance. Based on this experience, it is clear that we should encourage all operations to engage in legal aid although this may not necessarily mean for the existing legal aid platforms to be included in each cluster.

Mr. Chemaly particularly reminded the audience that the frontline reality of legal aid is not limited to case management only. A holistic approach whereby legal aid **has to come as part of a package for solutions, through** consistent, predictable, multi-year legal aid processes. Programs and projects need to be connected to the wider humanitarian assistance, to the wider development assistance and to the wider peace processes in-country. **Legal aid is probably the backbone of the humanitarian-peace-human rights-development Nexus**. In some contexts, we need to look at the **localization** dimension and see which existing structures exist among legal networks, human rights organisations that we can support instead of creating something new. Decisively, on the surface, **supporting legal aid might not be so appealing to donors** but it is concrete and very protective. The humanitarian sector should communicate more about the real impact of legal aid and why it should be funded. Moving forward, the **GPC Task Team on law and policy** – in collaboration with other task teams and AoRs – will work with field protection clusters and their members to strengthen their capacities in this area and our collective response to more adequately address legal aid needs of populations affected by humanitarian crises.

Ms. Carole Dahan, Senior Legal Adviser (Judicial Engagement), Division of International Protection at UNHCR, echoed the INTERSOS' report argument that legal aid can play a significant role in securing people's rights and entitlements in a wide range of civil and administrative matters, e.g. in obtaining redress for grievances and, in providing protection, including social protection. People can have their freedom of movement limited because of the fear of arrest and detention, risk of exploitation at work and even the risk of becoming stateless. All of these issues can be **addressed through civil documentation** as INTERSOS's report recalls, and State parties to the **1951 Convention** have a clear obligation to issue identity papers to refugees (article 27) as well to provide administrative assistance (article 25). Beyond civil documentation, numerous academic studies have confirmed that persons who are **represented by counsel in refugee determination proceedings** have a greater chance of being successful in their refugee claims. Likewise, in the context of immigration detention cases, individuals have a greater chance of being released and not held indefinitely. Legal representation to obtain protection, restraining orders, separation, divorce, custody and support orders can be lifesaving and are



vital in combating **gender-based violence**, as the INTERSOS report clearly illustrates. Access to legal aid is central to **ensuring access to justice** especially for the poorest and the most vulnerable who include refugees, IDPs, and stateless persons. Legal aid is the foundation for the enjoyment of all other rights and one of the key objectives of the **Sustainable Development Goals** (Goal 16). Legal aid empowers individuals and communities, it contributes to reducing poverty and promotes the protection of human rights. There are many different models and approaches to ensuring access to legal services for those who cannot afford it, from university-based legal aid clinics to State national legal aid, authorities providing legal representation, civil society organisations building community legal empowerment and providing information sessions as well as *pro bono* legal assistance by big corporate law firms.

Discussion

All webinar participants recognized the relevance and timely release of the INTERSOS report as it highlights the importance of legal aid as a foundation for protection and durable solutions while showcasing an NGO pledge made at the 2019 Global Refugee Forum that has been fulfilled.

During the exchange, the Danish Refugee Council and other participants insisted that approaches to legal aid comprise both services such as information, awareness-raising, counseling, assistance, and representation services. Advocacy efforts around the law and policy influencing the legal aid environment was also signaled as important to prioritize. An interesting 2016 UNDP and UNODC Global Study on Legal Aid⁸ was also mentioned, making the link between legal aid as a basis for all human rights.

One example from the INTERSOS report illustrated how access to legal aid is decisive for **vulnerable population** with the case of an unaccompanied child who had been left behind, despite the right to family ratification, facing exploitation, and having been sexually assaulted. The assistance of legal aid actors helped the family in pursuing remedies and getting the perpetrator incarcerated. As such, this helped protect not only the child but all of the children in the community.

On **funding**, the Global Protection Cluster and other speakers suggested that the INTERSOS report and other similar documents could be useful tools to raise interest among donors about funding longer-term legal aid projects. One way to attract more funding is through showcasing the impacts, the symbolism of resolving cases as well as the hope and the drive it creates for the community. A second element is about the issues being resolved thanks to legal aid, about reunifying a family, ensuring access to school, focusing on the issues rather than on the mechanism of legal aid.

Many participants flagged the need to **involve more communities**, the need to be even clearer about objectives, and about the fact that legal aid is not only about individual case management, but also about all the work done with communities. Recognizing **localization** and the community leaders and other legal or judicial systems, humanitarian actors do engage a lot in community-based protection. The key to providing legal aid is to know the community. Affected populations need to trust their lawyers because in most contexts, people do not trust the justice system and that is a major challenge for humanitarians. Participants also recognized the importance of informal justice systems, especially in countries where those are strongly rooted.

Participants also welcomed that the INTERSOS report addresses **housing, land, and property perspectives**. Legal aid, counselling and awareness are key parts of the work of housing, land and property working groups, task forces and sub-clusters. Participants were interested in developing a clear

⁸ UNODC & UNDP, *Global Study on Legal Aid*, October 2016: https://www.unodc.org/documents/justice-and-prison-reform/LegalAid/Global_Study_on_Legal_Aid_-_FINAL.pdf



link with durable solutions (and nexus) in carrying out due diligence to fully understand the rights to housing, land, and property in displacement contexts and then to increase security of tenure to provide safe homes. Building, across clusters, the connection for durable solutions is an area the Global Protection Cluster is keen to emphasize⁹.

A number of other pledges made at the 2019 Global Refugee Forum also dealt with promoting legal aid, for example the **GRF Legal Community pledge**¹⁰ developed in partnership with PILnet and over 80 different stakeholders from NGOs but also local and international law firms, corporations, Bar Association. The pledge commits to 120 000 *pro bono* hours per year that would go towards supporting refugees and others. **The Danish Refugee Council** also made two GRF pledges¹¹ related to legal aid.

Conclusion

The webinar attendees were strongly encouraged to engage more in legal aid, to improve how legal aid is provided and to take forward the recommendations from the INTERSOS report. Legal aid deserves more attention from all the stakeholders playing a role in the implementation of the Global Compact on Refugees and the Global Refugee Forum follow-up. While a number of pledges have been made to enhance legal aid at the 2019 Global Refugee Forum, those pledges need to be fully implemented. Providing legal aid could be also further strengthened through the GCR arrangements such as the Support Platforms and the Asylum Capacity Support Group.

Providing legal aid to strengthen protection and durable solutions should also be one of the key messages ahead of the High-Level Officials (HLOM) Meeting in December 2021. In line with the three HLOM priorities¹², in particular the third priority to “*Direct efforts to the areas in need of further support*”, developing momentum towards new pledges in this area for the second Global Refugee Forum in 2023 will be key.

About INTERSOS:

- Consult the website: <https://www.intersos.org/en/>
- Contact christina.nisha@intersos.org, eleonora.sceusa@intersos.org and miro.modrusan@intersos.org

About ICVA:

- Consult the webpage on the follow up to the Global Compact on Refugees and 2019 Global Refugee Forum: <https://www.icvanetwork.org/follow-global-compact-refugees-and-2019-global-refugee-forum-resource-page>
- Follow us on twitter: https://twitter.com/ICVA_Displaced
- Contact jerome.elie@icvanetwork.org and Loise.dairocheteau@icvanetwork.org

⁹ To know more about the work of the Housing, Land, and Property Area of Responsibility under the Global Protection Cluster, [subscribe to the newsletter](#) and contact Jim.robinson@nrc.no

¹⁰ More information on the pledge and how to join it, is accessible here: <https://www.pilnet.org/our-work/forced-displacement/> and contact jmayerhofer@pilnet.org. See also: **Global Refugee Forum Legal Community Pledge, 2020 Progress Report**, PILnet, June 2021: <https://www.pilnet.org/wp-content/uploads/2021/06/Global-Refugee-Forum-Legal-Community-Pledge-2020-Progress-Report.pdf>

¹¹ More information on the Danish Refugee Council pledges on Global Compact on Refugees Digital Platform, as of March 2021: <https://globalcompactrefugees.org/channel/pledgescontributions>

¹² See more on the priorities for the High-Level Officials meetings, *Proposed programme*, as of 20 April 2021: <https://www.unhcr.org/607965124/>