



UNHCR

United Nations High Commissioner for Refugees
Haut Commissariat des Nations Unies pour les réfugiés

NOTE ON THE MANDATE OF THE HIGH COMMISSIONER FOR REFUGEES AND HIS OFFICE

A. Background

Forced displacement and statelessness are undoubtedly matters of concern to the international community. It is in response to these challenges that the United Nations High Commissioner for Refugees and his Office were created as *the* global refugee institution in the wake of the Second World War. The mandate of the High Commissioner was established by the UN General Assembly [GA] in 1950, born from the experience of different international refugee institutions that had existed in the inter-war period.

It was the intention of the GA to ensure that the High Commissioner, supported by his Office, “*would enjoy a special status within the UN ... possess[ing] the degree of independence and the prestige which would seem to be required for the effective performance of his functions.*”¹ The High Commissioner is elected directly by the GA, acting under its authority and reporting to it annually.² The roles and responsibilities outlined in the Statute of the Office are vested in the High Commissioner from which his particular authority is derived.

In legal terms, the High Commissioner and his Office form a multilateral, intergovernmental institution, established by the GA as its subsidiary organ³ through resolution 319 A (IV) of 3 December 1949, and provided with its Statute in resolution 428 (V) of 14 December 1950 (Annex).⁴ The Statute stipulates that the High Commissioner “*acting under the authority of the General Assembly, shall assume the function of providing international protection ... and of seeking permanent solutions for the problem of refugees.*”⁵ The Statute is, however, not the only source of law of the mandate of the High Commissioner and his Office. Paragraph 9 of the Statute provides for the further evolution of his functions and activities.⁶ Since 1950, the GA and, to some extent, the Economic and Social Council [ECOSOC], have developed the mandate further. From time to time, the mandate of the High Commissioner and his Office has also been extended via “good offices” arrangements [discussed in F below]. Other activities may include action and participation “*at the invitation*

¹ See para. 11 of the Report of the Secretary-General A/C.3/527, 26 October 1949.

² See para. 11 of the Statute of the Office of the High Commissioner for Refugees [hereafter the Statute], as revised by General Assembly [hereafter GA] res. 58/153, 22 December 2003.

³ See Art. 22 of the Charter of the United Nations [hereafter UN Charter].

⁴ The competence of the United Nations to deal with refugees and stateless persons is implicitly contained in Arts. 1, 13, 55 and 60 of the UN Charter. These provisions, in conjunction with Arts. 7 (2) and 22 of the UN Charter, form the constitutional basis of the Statute.

⁵ Para. 1 of the Statute.

⁶ Para. 9 of the Statute stipulates that the High Commissioner should engage in such additional activities as the GA may determine, subject to resources available. Furthermore, the High Commissioner is required to follow policy directives given to him by the GA or the ECOSOC, pursuant to para. 3 of the Statute.

*of the Secretary-General, in those humanitarian endeavours of the United Nations for which the Office has particular expertise and experience.*⁷

Additionally, the High Commissioner's refugee mandate is embedded in public international law, and in particular international treaty law. The obligation of states to cooperate with the High Commissioner is, for instance, explicitly mentioned in international and regional legal instruments for the protection of refugees, notably the 1951 Convention relating to the Status of Refugees [hereafter 1951 Convention] and the 1967 Protocol relating to the Status of Refugees [hereafter 1967 Protocol].⁸ Some of the functions and responsibilities are also embedded in international law concepts more broadly, such as the surrogate function of diplomatic and consular protection for refugees and stateless persons or international human rights protection concepts. The High Commissioner is also legally entitled to and responsible for interceding directly on behalf of refugees and stateless persons who would otherwise not be represented legally on the international plane. The effective exercise of his mandate both presupposes and is underpinned by the commitment from states to cooperate with him and his Office. The High Commissioner is also empowered to "*invite the co-operation of the various specialized agencies*"⁹ to assist his Office in the performance of his mandate.

This two-pronged legal foundation has given the High Commissioner as well as his Office its unique identity, specific legal authority and independence. The GA decided in 2003 to remove the temporal limitation on the continuation of the Office, granting a permanent mandate "*until the refugee problem is solved*."¹⁰

As for the nature of the mandate of the High Commissioner, in line with paragraph 2 of the Statute, the position is non-political [that is, impartial], humanitarian and social in character. The budgetary and administrative parts of the Statute clarify that administrative expenditures shall be borne by the UN budget, while "all other activities" of the High Commissioner through his Office are to be financed through voluntary contributions.¹¹ The Office's budget and operational activities are guided by a smaller intergovernmental body, the Executive Committee of the High Commissioner's Programme [hereafter ExCom]. As regards international protection, the role of the ExCom is to advise the High Commissioner at his request.¹²

In response to reporting by the High Commissioner, two different sets of GA resolutions are adopted annually: (i) so-called "omnibus" resolutions referring to the High Commissioner and his Office in general, to its reports and to broader global developments in the area of forced displacement; and (ii) "situational" resolutions which are country- or

⁷ See GA res. 2956 (XXVII), 12 December 1972, para. 2; see also para. 9 of the Statute.

⁸ Directly, for example, in Arts. 35 and 36 of the 1951 Convention relating to the Status of Refugees [hereafter 1951 Convention], and indirectly, for example, in Art. 11 of the 1961 Convention on the Reduction of Statelessness following designation by the GA. See, further, note 25.

⁹ Para. 12 of the Statute.

¹⁰ GA res. 58/153, 22 December 2003, *Implementing actions proposed by the United Nations High Commissioner for Refugees to strengthen the capacity of his Office to carry out its mandate*, 22 December 2003, para. 9.

¹¹ Para. 20 of the Statute.

¹² As for the role of the Executive Committee of the High Commissioner's Programme [hereafter ExCom], see GA res. 1166 (XII), 26 November 1957 and ECOSOC res. 672 (XXV), 30 April 1958.

region-specific. In addition, the aforementioned ExCom adopts annually conclusions on international protection, thus setting standards in the area of forced displacement and statelessness.¹³

Activities not central to the core mandate are often integrated into subsequent omnibus resolutions. The repeated requirement or subsequent endorsement by the GA that the High Commissioner and his Office undertake certain responsibilities for protecting and assisting specific categories of persons elaborates upon and gives substance to the Office's general mandate covering such persons. Repeated GA resolutions and the acquiescence of states, therefore, lay down provisions of a "constitutional" nature for the High Commissioner and his Office.

B. Refugees and asylum-seekers [core mandate]

The High Commissioner's core mandate covers refugees, that is, all persons outside their country of origin for reasons of feared persecution, conflict, generalized violence, or other circumstances that have seriously disturbed public order and who, as a result, require international protection.¹⁴ Given the particular character of refugees as people who lack the protection of their own countries, the High Commissioner was established as the legal entity to be able to intercede on their behalf, as best illustrated by his supervisory responsibilities in respect of international refugee instruments.

The refugee mandate applies in both emergency and non-emergency asylum-seeker and refugee situations, as well as in situations of emergency and non-emergency mixed movements involving asylum-seekers and refugees. The refugee mandate also applies in both camp and outside camp settings. In fact, the High Commissioner has a mandate with respect to refugees globally, regardless of the location of the refugees.¹⁵

Asylum-seekers also fall within the High Commissioner's competence *ratione personae*. The GA has adopted the term in resolutions relating to the High Commissioner since 1981.¹⁶ It can either refer to an individual whose refugee status has not yet been determined by the authorities but whose claim to international protection entitles him or her to a certain protective status on the basis that he or she could be a refugee,¹⁷ or to persons forming part

¹³ See UNHCR, *A Thematic Compilation of Executive Committee Conclusions*, June 2011, where the pronouncements by the ExCom in relation to the various components of the High Commissioner's practice can be found.

¹⁴ See UN doc. A/AC.96/830, 7 September 1994, paras. 8, 10-11, 31-32.

¹⁵ The Office notes the existence and functions of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), established by GA res. 302 (IV) of 8 December 1949, to carry out direct relief and works programmes for Palestine refugees. The functions of the High Commissioner for Refugees and UNRWA are complementary: the High Commissioner for Refugees has the global refugee mandate, while UNRWA has a specific mandate over a particular category of refugees residing in five areas of operation (Gaza, West Bank, Lebanon, Jordan and Syria). This complementarity is acknowledged in the Statute, para. 7(c) and also in Art. 1D of the 1951 Convention.

¹⁶ Most recently, see GA res. 67/150, 20 December 2012, para. 19.

¹⁷ See, for example, ExCom Conclusions No. 29 (XXXIV) (1983), para. (j) and No. 57 (XL) (1967), para. (a).

of large-scale influxes¹⁸ of mixed groups in a situation where individual refugee status determination is impractical.

The High Commissioner and his Office are authorized to declare which individuals or groups may be of concern to the Office under its core mandate. This may be in relation to a specific individual or a wider group. The effect of exercising the mandate in this way lets other external actors know of the High Commissioner's international protection interest in and responsibilities towards persons covered by the designation.

The activities which the High Commissioner is required to carry out for refugees are set out both in the Statute [in particular paras. 1, 8, 9, and 10] and in subsequent GA and ECOSOC resolutions. The High Commissioner is primarily mandated to provide international protection and humanitarian assistance¹⁹ and to seek permanent solutions for persons within the Office's core mandate responsibilities.²⁰ The effective exercise of his mandate both presupposes, and is underpinned by, the commitment from states to cooperate with him and his Office, and acknowledges the High Commissioner's role in the "*effective coordination of measures taken to deal with this problem [the refugee problem]*", as evidenced by the final preambular paragraph of the 1951 Convention.²¹

In delivering these functions, the Office of the High Commissioner has a history of over sixty years of collaborating with Governments and developing partnerships with other international agencies and non-governmental organizations. Through annual consultations with non-governmental organizations (NGOs) and structured dialogues with key partners, as well as countless Memorandums and Letters of Understanding with other UN agencies, other inter-governmental organizations and NGOs, the Office of the High Commissioner has, over time, established a solid network of collaboration in order to advance the protection and assistance of persons of concern.

More specifically on collaboration and coordination, the Statute stipulates, for example, that the High Commissioner, through his Office, shall provide for the protection of refugees by:

- "*Keeping in close touch with the Governments and inter-governmental organizations concerned*" (para. 8 (g)),
- "*Establishing contact in such manner as he may think best with private organizations dealing with refugee questions*" (para. 8 (h)),
- "*Facilitating the co-ordination of the efforts of private organizations concerned with the welfare of refugees*" (para. 8 (i)),

¹⁸ This concept is related to ExCom Concl. No. 22 (XXXII) (1981), which was endorsed by GA res. 36/125, 14 December 1981.

¹⁹ On assistance, see paras. 8(c) & (b), 9 and 10 of the Statute.

²⁰ *Supra* note 5.

²¹ "*Noting that the United Nations High Commissioner for Refugees is charged with the task of supervising international conventions providing for the protection of refugees, and recognizing that the effective co-ordination of measures taken to deal with this problem will depend upon the co-operation of States with the High Commissioner*".

- *“The High Commissioner may invite the co-operation of the various specialized agencies”* (para. 12), and
- *“The High Commissioner and the Secretary-General shall make appropriate arrangements for liaison and consultation on matters of mutual interest”* (para. 17).

These legal provisions show that the High Commissioner’s Office was established as *the* global refugee organization of the UN and as such, the Statute places the High Commissioner and his Office at the centre of the international refugee response system, including in respect of coordination functions.

In terms of assistance the Statute refers to assistance in a number of provisions and obliges the High Commissioner and his Office to carry out various activities in relation to assistance:

- The High Commissioner *“[shall] assist[-] governmental and private efforts to promote voluntary repatriation or their assimilation with new national communities”* (para. 8(c)).
- The High Commissioner shall also *“promot[e] through special agreements with Governments the execution of any measures calculated to improve the situation of refugees”* (para. 8(b)).
- The High Commissioner *“shall engage in such additional activities, including repatriation and resettlement, as the General Assembly may determine, within the limits of the resources placed at his disposal”* (para. 9).
- The High Commissioner *“shall administer any funds, public or private, which he receives for assistance to refugees, and shall distribute them among the private and, as appropriate, public agencies which he deems best qualified to administer such assistance. The High Commissioner may reject any offers which he does not consider appropriate or which cannot be utilized.”* (para. 10).

The role of the High Commissioner in providing assistance, which is intricately linked with his international protection and durable solutions functions, is also reflected in numerous subsequent GA resolutions, including the annual omnibus resolution and the annual resolution on assistance to refugees, returnees and displaced persons in Africa.²²

Other standard functions have, for instance, included relief distribution, emergency preparedness, special humanitarian activities, broader development work,²³ as well as registration, determination of status and issuance of documentation for persons falling under the mandate. In addition, the institution of “good offices” remains a useful tool for situations outside mandated activities [see below under F]. While the Office’s mandate does

²² See, for example, GA res. 67/149, 20 December 2012, para. 34 and GA res. 67/150, 20 December 2012, para. 6.

²³ See, for instance, UNHCR, *Putting Refugees on the Development Agenda: How Refugees and Returnees can Contribute to Achieving the Millennium Development Goals*, Geneva, UNHCR doc. FORUM/2005/4 of 18 May 2005.

not extend to migrants generally, it is clear that asylum-seekers and refugees are often part of mixed migratory flows, thus necessitating a response on the part of the Office.²⁴

By way of further background, the High Commissioner's supervisory role in relation to states' compliance with their international obligations towards refugees and asylum-seekers [as well as stateless persons, discussed below] is an integral part of his core mandate and directly linked to ensuring a principled application of the international protection regime [see also above under A.]. The rationale behind this role is that strengthened supervision by an international organization is indispensable for a predictable framework of international cooperation and to ensure the proper functioning of such a system.

The High Commissioner's supervisory responsibility is laid down explicitly in paragraph 8(a) of the Statute, in Articles 35 of the 1951 Convention and Article II of the 1967 Protocol, and requires the 148 states parties to one or both of these treaties to cooperate with the High Commissioner in the exercise of his supervisory responsibilities [see also above under A.]. The High Commissioner is therefore competent *qua* its Statute and international treaty law to supervise all instruments relevant to refugee protection. Moreover, most regional refugee instruments also explicitly establish a link to the High Commissioner's supervisory function as regards the application of their provisions.²⁵ In essence, states parties to these international refugee instruments undertake to cooperate with the High Commissioner in the exercise of his functions, and in particular to facilitate his duty of supervising the application of the provisions of these instruments. They also agree

²⁴ See, for example, UNHCR *Agenda for Protection*, A/AC.96/965/Add.1, Goal 2: Protecting refugees within broader migration movements, 26 June 2002; UNHCR's [10-Point Plan on Refugee Protection and Mixed Migration](#), 1 January 2007.

²⁵ See Art. VIII of the 1969 *Organization of African Unity (now African Union) Convention governing the Specific Aspects of Refugee Problems in Africa* (with 45 states parties): final preambular paragraph recognizes the specific role of the Office of the High Commissioner and the need for “close and continuous collaboration between” the now African Union and the High Commissioner's Office. A reflection of the High Commissioner's supervisory responsibility can also be found, *inter alia*, in recommendation (e) of the 1984 *Cartagena Declaration* and the Preamble to the 1957 *Agreement relating to Refugee Seamen*. Furthermore, European Union law also demonstrates the commitment of its member states to cooperate with the High Commissioner in the implementation of the international refugee instruments, which extends to his supervisory role: for example, Declaration 17 on Art. 73k of the *Treaty of Amsterdam Amending the Treaty on European Union, The Treaties Establishing the European Communities and Related Acts*, OJ 340/134 of 10 November 1997 (“consultations shall be established with the United Nations High Commissioner for Refugees [...] on matters relating to asylum policy”); Recital 22, European Union: Council of the European Union, *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*, 13 December 2011, OJ L 337/10, 20 December 2011, pp 9-26 (“Consultations with the United Nations High Commissioner for Refugees may provide valuable guidance for Member States when determining refugee status according to Article 1 of the Geneva Convention”); Recital 25 (“the procedure in which an application for international protection is examined should normally provide an applicant at least with: [...] the opportunity to communicate with a representative of the United Nations High Commissioner for Refugees (UNHCR)”) and Art. 29 (“The role of UNHCR”, in particular “(c) to present its views, in the exercise of its supervisory responsibilities under Article 35 of the Geneva Convention, to any competent authorities regarding individual applications for international protection at any stage of the procedure”), as well as Arts. 37(3) and 45(2)(a), European Union: Council of the European Union, *Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection (recast)*, 26 June 2013, OJ L 180, 29 June 2013.

to “*provid[e] the High Commissioner with information concerning the number and condition of refugees, and laws and regulations concerning them.*”²⁶

The exercise of the High Commissioner’s supervisory role is unique in many respects. In fact, the Office of the High Commissioner has in some country operations been directly involved in national status determination procedures and national decision-making. The Office of the High Commissioner has also worked closely with the judiciary by providing *amicus curiae* briefs on leading cases to set out the Office’s legal position. A direct emanation of the High Commissioner’s supervisory responsibility is, *inter alia*, that his Office be given prompt and unhindered access to asylum-seekers and refugees, wherever they are,²⁷ and be allowed to supervise their well-being.²⁸

C. Returnees [core mandate]

Returnees are former refugees who have returned to their country of origin spontaneously or in an organized fashion but are yet to be fully integrated, including those returning as part of the operationalisation of the cessation clauses in the 1951 Convention and regional equivalents.²⁹ Such return would normally only take place in conditions of voluntariness, safety and dignity. The High Commissioner has a protection and solutions mandate for returnees as former refugees. Paragraph (l) of ExCom Conclusion No. 40, which was endorsed by the GA,³⁰ acknowledges the High Commissioner’s role on their behalf in connection with voluntary repatriation operations while recognizing the High Commissioner’s legitimate concern for the consequences of the return of refugees to their home countries. The High Commissioner’s mandate in this area has been refined and extended, from an initial premise that his responsibility ended when refugees crossed the border into their country of origin, to providing reintegration assistance and monitoring their treatment after return.³¹ The High Commissioner regularly enters into tripartite agreements on return and reintegration with the country of origin and the country(ies) of

²⁶ GA res. 428 (V), 14 December 1950, para. 2(h). See, also, para. 8(f) of the Statute; Arts. 35(2) and 36, 1951 Convention.

²⁷ See also ExCom Concls. No. 22 (III) (1981); 33 (XXXV) (1984) (h); 72 (XLIV) (1993) (b); 73 (XLV) (1993) (b)(iii); 77 (XLVI) (1995) (q); 79 (XLVII) (1996) (p); see further GA res. 50/152, 21 December 1995, para 13; res. 52/103, 12 December 1997, para. 7; res. 53/125, 9 December 1998, para. 9; res. 54/146, 17 December 1999, para. 10; res. 55/74, 4 December 2000, para. 11.

²⁸ See ExCom Concls. No. 22 (III) (1981); 48 (XXXVIII) (1987) (4) (d); see further GA res. 35/135, 11 December 1980, para. 1; res. 49/169, 23 December 1994, para. 9.

²⁹ See Art. 1C(5) and (6), 1951 Convention; Art. 1(4), OAU Convention.

³⁰ Endorsed by GA res. 40/118, 13 December 1985, para. 7.

³¹ See ExCom Concls. Nos. 18 (XXXI) (1980); 40 (XXXVI) (1986); 74 (XLV) (1994); and 101 (LV) (2004), and UNHCR, *UNHCR Handbook on Voluntary Repatriation: International Protection*, Geneva, 1996. The High Commissioner’s role has also been strengthened by the 1995 General Framework Agreement for Peace in Bosnia and Herzegovina, which, in Annex 7, designated the High Commissioner as the lead agency for the organized voluntary return of refugees and displaced persons to and in the Former Yugoslavia, and thus sets an important precedent. Similarly, in the context of Serbia (Kosovo), the High Commissioner’s overall lead role in the humanitarian area (which includes return) was set out in Security Council resolution 1244 (1999).

asylum.³² The role of the Office of the High Commissioner also involves making transitional arrangements for development assistance with development actors.³³

While the High Commissioner has a mandate for the return and reintegration of former refugees, his role is to be integrated into the overall strategy on durable solutions, in line with the Secretary-General's Policy Committee Decision on Durable Solutions.³⁴

D. Stateless persons [core mandate]

The High Commissioner for Refugees has stipulated responsibilities for refugees who are stateless, pursuant to paragraph 6 (A) (II) of the Statute and Article 1 (A) (2) of the 1951 Convention, both of which specifically refer to stateless persons who meet the refugee criteria.³⁵ Moreover, in accordance with GA resolutions 3274 XXIX and 31/36, the Office of the High Commissioner has been designated, pursuant to Articles 11 and 20 of the 1961 Convention on the Reduction of Statelessness, as the body to which a person claiming the benefits of this Convention may apply for the examination of his or her claim and for assistance in presenting it to the appropriate authorities.

In 1995, the ExCom adopted a comprehensive Conclusion on the Prevention and Reduction of Statelessness and the Protection of Stateless Persons, which was endorsed by the GA.³⁶ This text consolidated the evolution of the High Commissioner's mandate with regard to non-refugee stateless persons and the prevention and reduction of statelessness more broadly. It recognized explicitly in paragraph (a) that his activities on behalf of stateless persons are part of his "statutory function of providing international protection and of seeking preventive action." The Conclusion requested the Office of the High Commissioner, *inter alia*, actively to promote accession to the international statelessness instruments and to provide technical and advisory services pertaining to the preparation and implementation of nationality legislation. This is significant because it requires action not only with regard to protection and solutions for stateless persons but also to prevent statelessness from occurring. Subsequent ExCom Conclusions and GA Resolutions have further developed and refined the High Commissioner's mandate and have referred to four distinct areas in which the Office is authorized to act: identification, prevention and reduction of statelessness and the protection of stateless persons.³⁷

³² ExCom No. 40 (XXXVI) (1985), (j).

³³ ExCom. No. 74 (XLV) (1994), (q).

³⁴ UN Secretary-General Policy Committee Decision on Durable Solutions 2011/20, 4 October 2011, and 'Ending Displacement in the Aftermath of Conflict: Preliminary Framework for supporting a more coherent, predictable and effective response to the durable solutions needs of refugee returnees and internally displaced persons'.

³⁵ On the general competence of the United Nations to deal with refugees and stateless persons, see *supra* note 4.

³⁶ See ExCom Concl. No. 78 (XLVI) (1995); GA res. 50/152, 21 December 1995, paras. 14-16.

³⁷ See in particular GA res. 61/137, 19 December 2006, para. 4, and subsequent resolutions as well as ExCom Concl. No. 106 (LVII) (2006) on *Identification, Prevention and Reduction of Statelessness and Protection of Stateless Persons*.

E. The internally displaced

The High Commissioner does not have a general or exclusive mandate for internally displaced people but has been authorized by the GA to be involved operationally under certain circumstances in enhancing protection and providing humanitarian assistance to internally displaced persons through special operations.³⁸ The High Commissioner's engagement with the internally displaced has traditionally been related to situations where there is a strong link with refugee outflows [for instance, in Angola, Colombia or Sudan] or in the context of refugee return, such as in Bosnia and Herzegovina and in Serbia [Kosovo]. The GA referred for the first time in 1972 to internally displaced persons in connection with the High Commissioner's operational activities in Sudan.³⁹ In 1992, the GA, for the first time in an omnibus resolution, acknowledged the High Commissioner's activities in favour of internally displaced persons.⁴⁰ In 1993, the GA clarified the High Commissioner's role by way of setting out the formal criteria for the Office's involvement.⁴¹

The requirements for the High Commissioner's activities in favour of internally displaced persons are: a specific request/authorization from the Secretary-General or a competent principal organ of the UN; the consent of the state or other entities concerned; assurance of access to the internally displaced; availability of adequate resources and the Office's particular expertise and experience; complementarity with other agencies; and adequate staff safety.⁴²

The Office's involvement with the internally displaced today is largely defined by the inter-agency coordination approach of the Humanitarian Reform and the Transformative Agenda, which have been developed in the Inter-Agency Standing Committee context under the leadership of the Emergency Relief Coordinator [ERC], albeit operating in full respect of the mandates of the respective entities.⁴³ In this connection, it was agreed in mid-2005 that the Office of the High Commissioner would assume global cluster leadership for protection and co-leadership in the area of camp coordination/management and emergency shelter.⁴⁴

³⁸ For example in Bangladesh, Cyprus, Laos and Viet Nam. The activities of the High Commissioner for Refugees were subsequently endorsed by the GA; see UNHCR, *UNHCR's Operational Experience with Internally Displaced Persons*, Geneva, 1994, p. 3-11.

³⁹ See GA res. 2958 (XXVII), 12 December 1972.

⁴⁰ See GA res. 47/105, 16 December 1992, para. 14. See also UN doc. EC/50/SC/INF.2, 20 June 2000.

⁴¹ See GA res. 48/116, 20 December 1993, para. 12, as well as for more details UNHCR, *Internally Displaced Persons: The Role of the United Nations High Commissioner for Refugees*, UN doc. EC/50/SC/INF.2, which was issued in March 2000 and presented to the Standing Committee.

⁴² See, GA res. 48/116, 20 December 1993, para. 12; and GA res. 49/169, 23 December 1994, para. 10. See also ExCom Concls. Nos. 75 (XLV) (1994) and No. 87 (L) (1999), (t).

⁴³ See, GA res. 46/182, 19 December 1991, paras. 33 and 34. For ExCom Concls. referring to this see: *ibid.* No. 75 (XLV) (s); 98 (LIV) (2003), preambular para. 12; 100 (LV) (2004), (j)(ii); 102 (LVI) (2005) (x); 109 (LX) (2009) (n).

⁴⁴ On the High Commissioner's policy framework and implementation strategy for the internally displaced, see the Standing Committee document, UN doc. EC/58/SC/CRP.18 of 4 June 2007, <http://www.unhcr.org/refworld/docid/4693775c2.html>. The High Commissioner's competence is derived from paras. 3 and 9 of the Statute and a number of subsequent GA resolutions.

In the context of mixed situations which involve refugees, the mandate, responsibilities and accountability of the High Commissioner and his Office remain unchanged [see above under A. and B.]. His mandate responsibilities for refugees need to be respected even where coordination mechanisms are set up for other persons in need, such as the cluster system for IDPs. The High Commissioner is obliged to continue to exercise his mandate in respect of refugees, including advocating and interceding on their behalf directly with governments, and exercising his supervisory responsibility over the enjoyment of their rights. In order to do this, the High Commissioner through his Representative must maintain a direct line of communication with the government. The High Commissioner's mandate responsibilities, combined with his supervisory role, also mean that he must retain an oversight and monitoring role, within the UN response, over the delivery of services to refugees.

That said, in situations where refugees are part of mixed movements of IDPs, the coordination of the response would need to be driven by both mandate and practical considerations in the interest of refugees. It is preferable that the shape of the response is designed on a case-by-case basis given the wide variation in situations, actors and populations.⁴⁵

F. “Good offices” function

“Good offices” are a typical feature of international organizations. Various GA resolutions have called on the High Commissioner to extend his “good offices” to assist different groups of persons outside his mandated functions, dating back to 1959.⁴⁶ As a result, the High Commissioner has on occasions been involved with local communities, war-affected civilians or besieged populations, especially in circumstances where it was neither feasible nor reasonable to treat them differently from other categories of concern to the High Commissioner [particularly in the context of voluntary repatriation or special humanitarian coordination functions for internally displaced populations]. Such operational involvement has been of a humanitarian character and largely meant channeling international assistance or providing protection. Humanitarian assistance through airlifts was, for instance, delivered to the besieged local population in Sarajevo during the armed conflict in Bosnia and Herzegovina. Other examples were the High Commissioner's engagement with minority groups at risk in Serbia [Kosovo], or when, at the end of December 2004, the High Commissioner, upon the request of the Secretary-General, provided humanitarian relief to victims affected by the tsunami disaster in Sri Lanka and the Indonesian province of Aceh.

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⁴⁵ For example, UNHCR would provide technical advice on the return and reintegration of internally displaced persons as part of the overall strategy on durable solutions for displaced persons: see, *supra* note 34.

⁴⁶ See GA res. 1388 (XIV), 20 November 1959, in relation to Hong Kong.