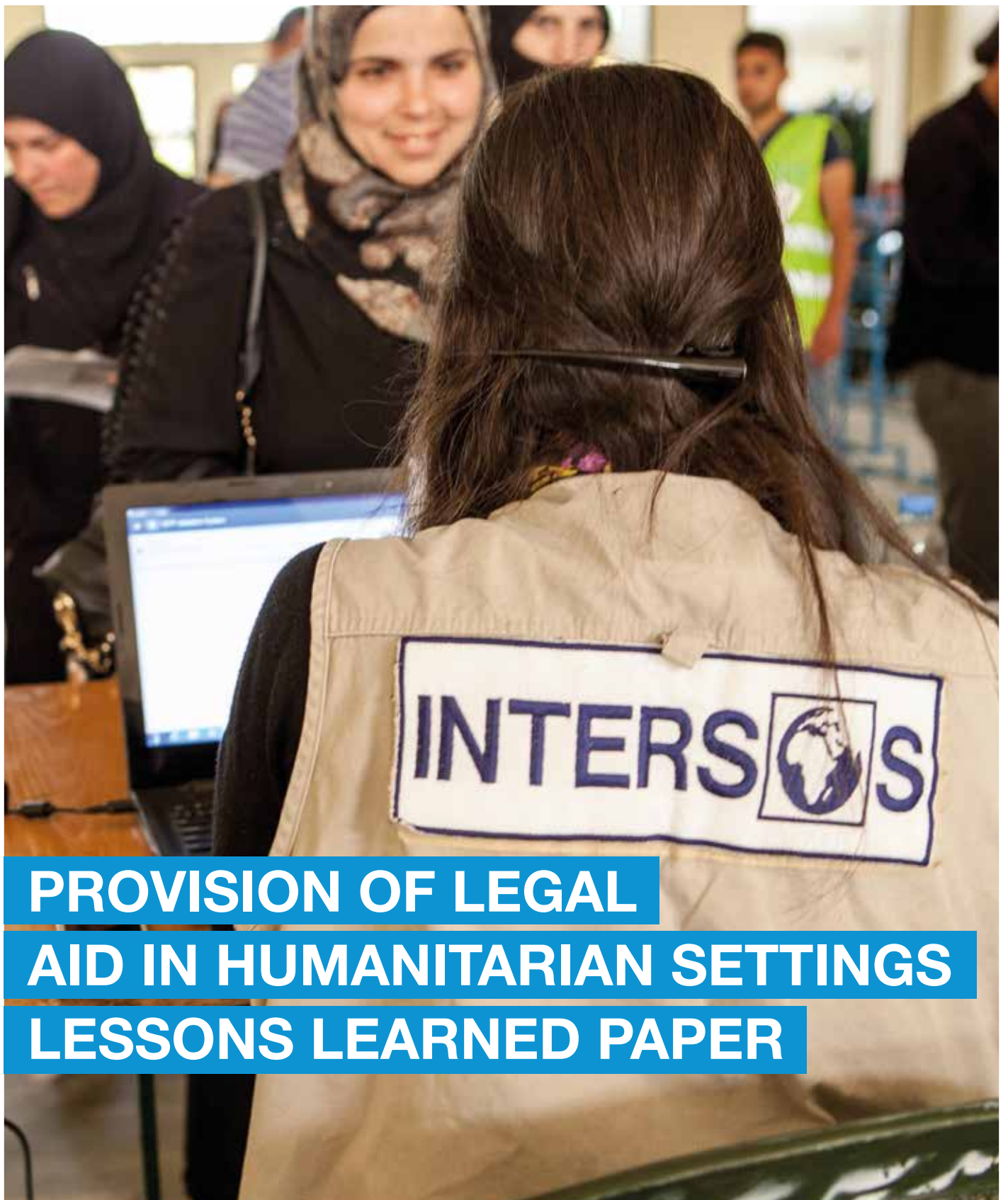


# INTERSONS



**PROVISION OF LEGAL**

**AID IN HUMANITARIAN SETTINGS**

**LESSONS LEARNED PAPER**

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# Acronyms

CAD	Civil Affairs Directorate (Iraq)
CBO	Community Based Organisation
CHS	Core Humanitarian Standard
CP	Child Protection
GBV	Gender-Based Violence
GSP	General Security Office (Lebanon)
HC	Humanitarian Coordinator
HCT	Humanitarian Country Teams
HLP	Housing, Land and Property
HRP	Humanitarian Response Plan
IDP	Internally Displaced Person
IHL	International Humanitarian Law
IOM	International Organization for Migration
ISF	Internal Security Forces (Lebanon)
ISIS	Islamic State of Iraq and Syria
KRI	Kurdistan Region of Iraq
MHPSS	Mental Health and Psychosocial Support
MoU	Memorandum of Understanding
NGO	Non-Governmental Organisation
NSA	Non-State Actor
OHCHR	Office of the High Commissioner for Human Rights
SOPs	Standard Operating Procedures
UNHCR	United Nation High Commissioner for Refugee

## FOREWORD

As the world struggles with the impact of COVID-19 pandemic, those living in already extremely difficult humanitarian and economic conditions are experiencing some of the worst health impacts of the pandemic, as well as challenges with access to food, WASH, protection and other basic services. Millions of people forcibly displaced by conflicts, disasters and other problems are arguably the most vulnerable groups, particularly women, boys and girls, older people, people living with disabilities, and marginalised populations.

Lack of legal documentation for the highly vulnerable displaced persons, especially in remote and hard to reach areas, is a particular obstacle in accessing humanitarian, social, protection, and other services. The lack of documentation is a cause of major protection issues for displaced persons seeking refuge in host countries, with a risk of being illegally detained or deported with no due process. Obtaining documentation is also necessary for refugees accessing durable solutions, including access to employment and livelihoods, regulating their residency status and avoiding statelessness.

Furthermore, there are many other protection vulnerabilities faced by individuals and communities, such as sexual and gender-based violence or other forms of abuses. The survivors of such abuses often require a range of legal support, including assistance with legal aid and representation.

We should also remember that even in extraordinary situations, such as conflicts and forced displacements, life continues for individuals and families, who are experiencing births, marriages, divorce, deaths and other situations, just like in stable societies.

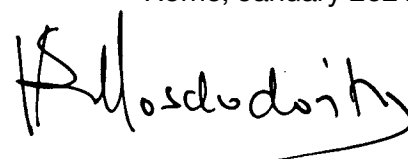
In this regard, it is important to stress the high importance of providing legal services including assistance, awareness, counselling, and representation to individuals and communities in the humanitarian contexts, as a tool to help minimise their distress and to ensure the essential protection is provided. It is also the right of every human being to achieve their minimum rights of equality and protection before the law, and access to effective legal remedies.

Unfortunately, legal aid is often overlooked as a field of humanitarian work, despite the fact that experience shows that without this important activity, millions of people may be even more vulnerable.

For that reason, INTERSOS is delighted to share the lessons learned report - Provision of Legal Aid in Humanitarian Settings, a research conducted based on years of experience from INTERSOS in providing these services in Afghanistan, Cameroon, Iraq, Jordan, Lebanon, Yemen and other countries.

INTERMOSOS sincerely hopes that this report will highlight in detail the importance of legal activities as an essential component of humanitarian action, and an important piece in the puzzle in a collective multi-stakeholder action of supporting durable solutions of millions of displaced people, as highlighted by the first Global Refugee Forum that took place in Geneva from 16 to 18 December 2019.

**Kostas Moschochoritis,**  
*Director General, INTERSOS,*  
Rome, January 2021



## EXECUTIVE SUMMARY

Obtaining full legal protection is essential for populations affected by humanitarian crises. The need for legal aid in such contexts is quite wide, ranging from challenges linked to supporting survivors of sexual and gender-based violence, to a lack of legal documentation, the denial of rights or of access to services, lengthy, expensive and unclear procedures related to status in host countries, as well as risks of being illegally detained or deported with no due process.

Unfortunately, legal aid is often overlooked as a field of humanitarian work, despite the resulting gaps in protection. The continual need to respond to new emergencies means that developing work on legal aid services tends to get put on the backburner, even though the lack of legal aid can reduce the effectiveness of overall assistance interventions.

To address these issues and support the impacted individuals in navigating these challenges and enjoying their rights, INTERSOS strives to provide legal services in emergency settings around the world. At the first Global Refugee Forum INTERSOS pledged to conduct this lessons learned research on provision of legal aid based on operational experiences from different contexts – the information in this report derives from INTERSOS' legal aid work in Afghanistan, Cameroon, Iraq, Jordan, Lebanon and Yemen.

International legal instruments confirm that all human beings are entitled to the fundamental rights of equality before the law, equal protection of the law, information is also essential to individuals and communities and access to effective remedies by a competent tribunal. Standard Operating Procedures for legal services provided by any organisation should be based on these principles and provisions, as well as on the relevant national legislation.

Legal aid protects people in humanitarian crisis settings from being more vulnerable to protection risks. For example, in some settings a displaced woman giving birth may face risks of arrest if she has not received assistance to obtain a copy of her marriage certificate. Enabling people to know about their rights and how to access them should be an integral part of the humanitarian response. Access to civil documentation can be vital for people affected by humanitarian crises, in order to access services, humanitarian assistance, and government social protection programmes, for freedom of movement without the risk of arrest and detention, for inheritance and property rights, access to work and livelihoods, rights to residency, and avoiding statelessness. For refugees, obtaining documentation is necessary for accessing durable solutions. For Gender Based Violence (GBV) cases, legal support is part of the comprehensive package to assist the survivor. In detention cases, legal services can lead to a person's release, and to resolving their status. In Housing, Land and Property (HLP) cases, without legal mediation and support, there would be many more evictions and increased homelessness.

INTER SOS provides legal awareness, counselling, assistance, and representation; each of these services is defined and explained in this report. Overall the most common legal services provided by INTERSOS relate to obtaining civil documentation. This is because of the demand from people for this legal service, the importance of civil documentation to people's lives in humanitarian settings, and the fact that it often proves to be too complex or costly for people to pursue this process on their own. This is particularly true for people who suffer discrimination within the communities where they are living, such as refugees and IDPs and certain marginalised groups. When legal representation is provided by INTERSOS, this is usually for GBV and Child Protection (CP) cases.

In many States, the legal and policy environment discriminates against marginalised and vulnerable people, and some organisations have focused their attention on advocacy to seek changes to these structural issues rather than on direct legal services provision. INTERSOS recognises the importance of advocacy to change laws and policies and therefore supports and works closely with the collective advocacy undertaken by humanitarian coordination mechanisms such as Protection Clusters and Legal

Working Groups. INTERSOS considers that, alongside this advocacy, direct legal services provision, legal advice, accompanying clients and giving them information is also essential to individuals and communities.

INTEROS identifies and prioritises those who are eligible for its legal aid services, by using criteria that include vulnerability and technical legal criteria. INTEROS puts a lot of emphasis on reaching people in more remote or marginalised communities. This requires building relationships – with community leadership, and with whoever controls the territory - to negotiate access. INTEROS often uses mobile teams that rove between communities, and it further communicates the existence of its legal services using various means such as radio programmes, free telephone hotlines, leaflets, Facebook pages etc. INTEROS community outreach is enhanced in some settings by building teams of community legal volunteers and paralegals.

INTEROS has global guidelines for legal services, which set minimum standards and require local Standard Operating Procedures (SOPs) to be developed, to take into account specific contexts and legal frameworks. INTEROS has a number of key requirements for its legal services in any context:

- SOPs on legal services are developed and rolled-out at national level
- Adherence to the core principles of implementing legal activities must be ensured through country SOPs reflecting them, as well as through constant supervision, monitoring and evaluation
- Vulnerability and legal criteria for eligibility for legal services are adapted to the local context and clearly explained in the national SOPs
- All clients must give their consent and sign the consent form in order to proceed with legal services
- Legal cases for legal assistance and representation must be individual: each file should be given a case code and assigned to a specific legal team member
- Legal team members are trained on referral of cases, and are provided with updated maps of services available, including for emergency and contact lists for referrals
- Steps of legal services procedures are detailed in the national SOPs, with specific regards to each type of legal services provided by INTEROS in the country
- Accountability systems are developed and are fully functioning
- Data Protection Protocols are developed and rolled out at mission level where legal services are provided

INTEROS finds that including legal services within its protection services, rather than having stand-alone legal services, is of great importance in order to provide a holistic service. INTEROS considers it necessary for legal services to be provided as part of an overall package. This creates better acceptance in communities and by local authorities, since they know and trust the organisation already through its other services.

Due to the sensitivity and the technical nature of the provision of legal services, particularly to vulnerable individuals, INTEROS has determined that its legal teams should be composed of qualified, trained and well-supervised legal staff. INTEROS uses the services of lawyers who are members of their local Bar Associations in the countries in which INTEROS is offering services.

There are some particular challenges, constraints and potential risks (to beneficiaries, staff, the agency's operations and reputation) that are specific to the provision of legal services, on top of the general challenges, constraints and potential risks inherent in operating in conflict-affected and fragile settings. As with all humanitarian work, access can be blocked, particularly for legal projects monitoring places of detention and offering legal services to detainees. Assisting clients to obtain civil documentation can also be politically sensitive in some settings, and obtaining a legal document can be seen as "taking a side" when communities do not know who will end up being in control of their area. There are risks to agencies' overall programmes and reputation, and to the lawyers' security, if they are accused that by their legal services provision they are supporting people affiliated with a particular faction/armed group/government. There are potential risks of threats and violence/retaliation to both beneficiaries and legal staff in taking on some legal disputes between family members, especially in alleged GBV and CP cases.

In many settings in which humanitarian actors operate there are significant limitations on what a lawyer can achieve for their clients because of the national legal and policy framework in place. Often communities will prioritise the use of alternatives to the formal justice system. Whilst this may be useful in many cases, these informal mechanisms tend to favour those in power, and therefore women and less powerful tribes tend to be disadvantaged by using them. The lack of resources allocated to the State legal system is a problem in many settings, as is corruption, and raising issues of corruption can pose another potential security threat to lawyers. Short-term humanitarian funding cycles pose a real problem for legal aid services; it requires significant time to establish quality legal aid projects in complex settings. The duration of projects is linked to short-term humanitarian contracts which are often shorter than the legal cases being supported.

To mitigate these challenges and constraints, INTERSOS has used the following strategies which are described in this report with examples:

- Community engagement and emphasising adherence to the humanitarian principles
- Employing national legal staff, including staff from the local community
- Building relationships with the authorities
- Engagement with UN humanitarian coordination mechanisms
- Taking the necessary time to understand the context, develop the strategy, find ways around the obstacles to providing the service, and build the necessary relationships and community trust
- Testing the waters - starting slowly with less controversial topics, and then assessing the potential to build towards more sensitive protection-focused topics
- Risk assessments and risk management plans

INTER SOS' legal aid teams support and engage in the humanitarian coordination system. INTERSOS sometimes takes on co-lead roles for Protection Working Groups and always participates in these coordination mechanisms if they are in place in the areas where they are working. However, INTERSOS often works in geographical areas where they are the only – or one of the only – humanitarian actors operating. In some settings humanitarian legal services organisations lack sufficient coordination with human rights actors. However, the issue is also one of resources and the lack of adequate human resources to conduct information-management for analysing trends.

Humanitarian agencies should consider the longer-term impacts and sustainability of their legal aid services, considering the potential legacy that they can leave in building national and local legal aid services. INTERSOS engages national lawyers in humanitarian issues in which they might not otherwise have gained experience, and trains them in humanitarian principles. There is potential for INTERSOS and other humanitarian agencies to increase training of Bar Councils in some settings, and training of community leadership on legal issues, as well as national and local NGOs when they comply with neutrality and impartiality requirements. Capacity-building of national and local authorities, and legal awareness for communities, are important areas of INTERSOS' legal services work.

Legal services can fall at the nexus between humanitarian, development and peace-building work. There could be benefits to humanitarian agencies that are providing legal aid services working more with development actors in some settings, to try to fill some of the gaps in legal aid provision. When designing a legal aid project, humanitarian actors should include indicators on its contribution towards building national and/or local legal aid systems. As well as supporting individual legal cases, humanitarian legal aid actors like INTERSOS tend to advocate for legal reforms and policy shifts and to engage in some forms of capacity-building in order to improve the situation for their beneficiaries in a more systematic way. Peace and development funds might be available for this work.

# RECOMMENDATIONS

## **Humanitarian agencies that provide legal aid services should:**

- Engage in advocacy to raise awareness about the need for legal aid in humanitarian settings - to seek more attention from other humanitarian agencies, donors, Humanitarian Country Teams (HCTs), and governments, and to foster an understanding that providing legal services is an essential element of a humanitarian response
- Ensure that they have clear procedures and guidelines, including confidentiality and data protection protocols and eligibility criteria, in place for their legal services, and require the development of SOPs at national and local levels
- Invest time and resources into building community engagement and emphasise their adherence to humanitarian principles
- Undertake risk assessments and risk management plans involving all of the organisation's relevant protection stakeholders together with beneficiaries before embarking on providing them with legal assistance or representation
- Build relationships with national and local authorities - to facilitate the legal services work, enhance the security of staff and beneficiaries, and advocate for law and policy reform
- Participate in humanitarian coordination mechanisms
- Improve the geographical coverage of their work, including the use of mobile legal services units and explore and expand remote provision of legal aid if capacities and access allow
- Strengthen their information-management staffing, to enable the analysing of trends and to facilitate the use of data for advocacy purposes, and ensure that there is adequate coordination with human rights actors
- Invest in supporting national/local legal talent from the communities in which they are operating – from community volunteers to legal professionals
- In appropriate contexts, diversify funding sources by applying to development-focused donors for support for legal aid services, and engage with development actors
- When designing legal aid projects, include indicators on the contribution towards building national and/or local legal aid systems

## **Humanitarian leadership (Humanitarian Coordinators, HCTs, inter-cluster coordination and Cluster Leads) should:**

- Support humanitarians' legal aid work through high-level advocacy to press for law and policy reforms affecting beneficiaries' rights and to improve access to beneficiaries for legal services providers
- Give increased recognition to the role of legal aid in enabling conflict- and crisis-affected people to access their rights, e.g. in Humanitarian Response Plans (HRPs) and when appropriate allocate funding for legal aid projects under HRPs
- Engage the leadership of other relevant clusters (e.g. food security, education), not just the Protection Cluster, in advocacy for beneficiaries' rights
- Ensure that Protection Clusters and their Subclusters and Task Forces are adequately staffed
- Ensure that Protection Clusters establish Legal Task Forces where these are not in place and where their establishment would facilitate legal services work
- Ensure that Protection Clusters establish information-sharing protocols about human rights monitoring and reporting
- Through the Protection Clusters and Legal Working Groups, establish common standards for legal aid work, and agreed modalities and processes offered by the humanitarian legal actors locally, which will also assist as more national and local legal aid organisations engage in this work
- Support the engagement of national and local legal aid organisations and lawyers in humanitarian coordination mechanisms



## Donor governments should:

- Support longer-term projects for legal aid services, with the understanding that these services take significant time to establish successfully
- Provide political support via their embassies, playing a partner role on advocacy to press for conflict- and crisis-affected people's rights to be central to political and peace-building processes, including their rights to access justice and legal aid
- Allow for flexibility of funding to facilitate legal aid services in changing contexts, including flexibility over target areas to facilitate referrals of cases
- Provide funding for information-management support for humanitarian agencies engaging in legal aid services
- Support humanitarian agencies' efforts to build capacity in national and local legal services and to create an enabling environment for respect of conflict- and crisis-affected people's rights



An INTERSOS lawyer in Salah Al Din, Iraq provides legal counselling to an Internally Displaced Person (IDP) during a field visit.

# 1. INTRODUCTION AND BACKGROUND

INTERSOS is an international humanitarian Non-Governmental Organisation (NGO). Since 1992 it has carried out humanitarian response projects in 45 countries on 4 continents. INTERSOS intervenes in emergency and crisis situations, with a central focus on protection activities, as well as water and hygiene, emergency shelter, education in emergencies, food security, health and nutrition to the most vulnerable people, families, and communities whose lives are threatened by conflict, extreme poverty, natural or manmade disasters and extreme exclusion.

Protection assistance is the backbone of all INTERSOS humanitarian programming. For example, INTERSOS is currently UNHCR's biggest protection partner in Iraq, and employs more than 50 legal team members there. INTERSOS provides protection monitoring, case management, legal and psychosocial support, to the most vulnerable sections of the affected population including victims of violence, with a focus on the particular needs of women and children. INTERSOS runs awareness-raising campaigns and capacity building programs focused on the management and prevention of GBV, and on CP and children's rights.

Obtaining full legal protection is one of the main priorities for populations affected by humanitarian crises, particularly in situations where the lives of communities and individuals are disrupted by conflicts and violence, including for those that are forcibly displaced. The need for legal aid in such contexts is quite wide, ranging from challenges linked to supporting victims of sexual and gender-based violence, to a lack of legal documentation, the denial of rights or of access to services, lengthy, expensive and unclear procedures related to status in host countries, as well as risks of being illegally detained or deported with no due process. Very often the impact of these issues on the safety and security of the most vulnerable individuals is severe. At the same time, legal and institutional frameworks, instead of being instruments of protection and empowerment, have frequently provoked or perpetuated displacement and discrimination. To address these issues and support the impacted individuals in navigating these challenges and enjoying their rights, INTERSOS strives to provide legal services in emergency settings around the world.

The Global Compact on Refugees, affirmed by the United Nations General Assembly in 2019, put in place a new comprehensive refugee response model. One principal mechanism for follow-up and review is the Global Refugee Forum where States and other actors come together every four years to share good practices and contribute with pledges of financial support, technical expertise and policy changes to help reach the goals of the Global Compact. The first Global Refugee Forum took place in December 2019, and INTERSOS pledged to conduct a lessons learned research on provision of legal aid based on operational experiences from different operational contexts.



*Legal counselling provided by INTERSOS SGBV lawyer inside Drop-In Center in Sana'a for a SGBV survivor – Domestic Violence*

## 1.1 INTRODUCTION TO INTERNATIONAL LEGAL FRAMEWORKS

The right of each individual to be equally protected by the law, and to have access to legal remedies in case her/his rights are violated, is included in several international instruments. **The Universal Declaration of Human Rights** (UDHR, 1948) was the first international instrument to provide a standard - although not in a legally binding way - that all persons are entitled to “equal protection of the law”, as well as the right to a fair trial<sup>1</sup>.

Following the UDHR, additional binding international instruments were developed to further elaborate on concepts related to equal access to legal protection for all, especially for marginalised and vulnerable groups. These rights have been enshrined in the **International Covenant on Civil and Political Rights** (ICCPR, 1966), ratified by – and thus binding in – 172 States:

*Article 2.3 - “Each State Party to the present Covenant undertakes: (a) to ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity.”*

*Article 3 - “The States Parties to the present Covenant undertake to ensure the equal right of men and women to the enjoyment of all civil and political rights set forth in the present Covenant.”*

*Article 26 - “All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.”*

The right to access legal assistance in criminal matters is also specifically provided for by the ICCPR:

*Article 14.3 - “In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality: (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it.”*

With particular regards to women, the **Convention on the Elimination of All Forms of Discrimination against Women** (CEDAW, 1979) stipulates that all the 189 States which ratified or acceded it are obliged to ensure the legal protection of women on an equal basis and must provide the civil legal aid necessary to fulfil that obligation.

All 196 State parties to the **United Nations Convention on the Rights of the Child** (CRC, 1989) undertook to treat accused children in conflict with the law “in a manner consistent with the promotion of the child’s sense of dignity and worth,” including access to “legal or other appropriate assistance” to enable the child to prepare his/her defence. The CRC reiterates the priority established in other international instruments to provide “conditions of equality” and non-discrimination.

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<sup>1</sup> By providing the right to be free from discrimination, the “right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted to him [or her] by the constitution or the law” and the right “in full equality to a fair and public hearing by an independent and impartial tribunal”, the UDHR called on States to strengthen their justice systems to make these commitments a reality for every individual.

On the basis of these international legal instruments, all human beings are entitled to the following three fundamental rights:

- Equality before the law;
- Equal protection of the law;
- Access to effective remedies by a competent tribunal.

In line with these legal principles, the provision of legal services by humanitarian organisations aims at ensuring that, also in emergency settings, all affected individuals (as rights-holders) are supported in receiving information and assistance with regards to their rights, and that States (as duty-bearers) uphold their responsibilities concerning the respect and promotion of those rights.

SOPs for legal services provided by any organisation should be based on the above principles and provisions, as well as on the relevant national legislation of the particular country of intervention.

## 1.2 PURPOSE AND OBJECTIVES OF THE PAPER

### **Purpose:**

The research paper will provide operational learning from INTERSOS work on legal aid in diverse operational contexts, targeting different groups and individuals impacted by situations of conflict or natural disasters. The paper will consider INTERSOS Legal Aid work in Afghanistan, Cameroon, Iraq, Jordan, Lebanon and Yemen.

### **Objectives:**

- Provide an in-depth understanding of what does legal aid in humanitarian settings entail, as well as an understanding of criteria for providing this assistance
- Provide lessons and learning on what legal aid in different contexts means and INTERSOS operational approaches that could help inform such assistance by INTERSOS and external organisations
- Provide an analysis of the importance of different types of legal assistance to different vulnerable communities, especially those that are forcibly displaced and provide clear linkages to the rationale for such assistance
- Provide comprehensive analysis of the main challenges to successful legal assistance work, outlining key mitigation measures that should be employed in overcoming them.



## 2. WHY DOES LEGAL AID MATTER IN HUMANITARIAN SETTINGS?

Protection is included as a humanitarian activity offered by many humanitarian agencies – and legal services are one component of protection. It is a fundamental right for people to have legal protection. Without the legal aid services of humanitarian agencies, many people in humanitarian crisis settings simply could not access this essential means of protection in practice.

Legal aid is often overlooked as a field of humanitarian work, despite the resulting gaps in protection. Humanitarian Response Plans (HRPs) – prepared by the international community to articulate the shared vision of how to respond to the assessed and expressed needs of the population affected by humanitarian crisis – rarely highlight legal aid as a key element of the humanitarian response. For example, the 2020 Afghanistan HRP does not include legal aid as one of the main elements, except for HLP, and legal aid was not even mentioned as one of the activities of the protection cluster for 2020 in the HRP. The continual need to respond to new emergencies means that developing work on legal aid services tends to get put on the backburner, even though the lack of legal aid can reduce the effectiveness of overall assistance interventions.

Legal aid protects people in humanitarian crisis settings from being more vulnerable to protection risks. For example, in some settings a displaced woman giving birth may face risks of arrest if she does not have a marriage certificate; obtaining a copy becomes an essential priority for protection assistance. Enabling people to know about their rights and access them should be an integral part of the humanitarian response.

Access to civil documentation can be vital for people affected by humanitarian crises, in order to access services, including education and healthcare, humanitarian assistance, and government social protection programmes or even to buy a SIM card for communication. Without documents there can be severe limitations on people's freedom of movement – to pass a checkpoint, leave an IDP camp, or cross a border without the risk of arrest and detention. Possessing civil documentation can prevent wrongful incarceration, e.g. in Iraq if you do not have a document, you can be perceived to be affiliated with extremist groups. Access to civil documentation is also essential for inheritance rights, property rights, renting a property, security of tenure and protection from eviction, access to work or livelihoods, rights to residency, and avoiding statelessness. For refugees, life in their host country is extremely precarious if they do not obtain their documents, both civil registration documents and asylum-related documents. Without these, they may not be able to access services and assistance, and they are at much greater risk of exploitation, e.g. by employers and by landlords, and could face arrest, detention, and deportation. Further, for refugees obtaining documentation is necessary for accessing durable solutions, e.g. a woman may need custody documents to ensure that her child can access resettlement together with her, and various documents may be required in order to obtain an exit visa; similarly a person may be required to have civil documentation to voluntarily return to their country of origin.

## Case study: Legal assistance to obtain civil documentation facilitates durable solutions

### **“Obtaining documentation enables Syrian refugee child to reunite with his family in Spain”**

An unaccompanied 14-year old Syrian boy was smuggled into a neighbouring country. He was exposed to child labour exploitation by a hotelier who used him to work in the hotel in exchange for just food and accommodation for two years. He wanted to obtain his legal identity documents, but he had been told that he was not allowed to leave the hotel. The child had a family member in Spain, who had applied for him to join him there. The application for family reunification had been accepted. However, the child had no residency card. The lack of a residence permit meant that he could not obtain an exit visa and was therefore unable to travel and reunite with his family. After the child managed to contact the INTERSOS lawyer, the lawyer advocated with the International Organization for Migration (IOM) and arranged for him to obtain the residence permit and then obtain the exit visa. As a result, the child was able to travel safely and legally to Spain and reunite with his family.

Refugees, IDPs and returnees are less likely to have civil documentation papers, and they are at great risk of exploitation as a result. Documents are often lost or destroyed during conflicts or disasters, e.g. during the Beirut blast in Lebanon in 2020. Further, communities may not have needed access to civil documentation until a crisis hit. For example, in Yemen rural populations were generally not aware of the need for civil documentation until they were affected by conflict; the conflict meant that they were forced to move, and this has led to a need for civil documentation. If a refugee does not have a work permit, there is a much greater risk that s/he will be exploited by employers and treated badly. This can result in a higher risk of GBV and child labour, and of desperate families turning to child marriage to find ways to survive.

For GBV cases, legal support is crucial; it is part of the comprehensive package to assist the survivor. In detention cases, legal services can lead to a person’s release, and to resolving their status. In Housing, Land and Property (HLP) cases, without legal mediation and support, there would be many more evictions and increased homelessness.

Legal awareness work – providing legal information to communities - fulfils a very important role in many settings, and often enables communities to avoid legal difficulties and to pursue actions to resolve their own legal problems. Legal representation in some emblematic cases can show victims they can have their rights respected, and as potential deterrence to potential perpetrators, e.g. in GBV cases. In some countries INTERSOS often provides legal assistance for victims in criminal cases, e.g. cases of children who witnessed the killing of their parents in connection with the conflict. There are reports of an increase in suicide cases in some countries, by GBV survivors during the COVID period. This is due to a number of factors, such as increased isolation within the home with perpetrators, lack of access to service providers, loss of income etc, and in some cases this was exacerbated by the lack of access to legal recourse, eg. to pursue divorce proceedings, during this period due to closure of the courts – a tragic example which demonstrates the importance of legal services.

### 3. EXPLAINING DIFFERENT LEGAL SERVICES IN HUMANITARIAN CONTEXTS

INTER SOS provides the following four types of legal services in humanitarian contexts:

- **Legal Awareness:** provision of legal information to a group of persons regarding key legal issues relevant to their rights (e.g. asylum procedures, birth registration, legal residency). Legal awareness sessions are designed to raise awareness and provide information on key legal issues faced by the targeted community
- **Legal Counselling:** tailored legal advice on an individual basis, to assist with a particular legal issue and build the beneficiary's capacity to address it.
- **Legal Assistance:** provision of legal support to an individual with regards to administrative or legal procedures, without the need for a power of attorney and with or without the beneficiary's presence. This includes, for example, the registration of a marriage, a birth or a death, or the submission of a release request to a criminal court, which might require accompanying the client to the relevant offices, and might include the payment of fees required by courts or other bodies for processing their application. Legal assistance might be needed if legal counselling proved to be insufficient to achieve the desired result (e.g. obtaining a document).
- **Legal Representation:** tailored assistance provided by a practicing lawyer, acting on behalf of an individual through power of attorney before an administrative or judicial body (including religious courts and traditional dispute settlement mechanisms) in the framework of civil, criminal and administrative proceedings. Representation is normally the last resort, should the other legal services be insufficient in achieving the result. In some settings this may also include mediation, e.g. with a landlord to try to avoid an eviction.

#### 3.1 MOST COMMON TYPE OF LEGAL SERVICE PROVIDED BY INTER SOS – WHAT AND WHY?

Overall the most common legal services provided by INTER SOS relate to **obtaining civil documentation**. This is because of the demand from people for this legal service, the importance of civil documentation to people's lives in humanitarian settings, and the fact that it often proves to be too complex or costly for people to pursue this process on their own. This is particularly true for people who suffer discrimination within the communities where they are living, such as refugees and IDPs and certain marginalised groups.

For **legal awareness**, INTER SOS legal teams tend to run sessions for communities on a range of topics. This often includes civil documentation, but also a wide range of topics of importance to protect the rights of the community, such as the importance of respecting the laws in their host country, IHL, human rights violations, GBV, divorce, alimony, custody, CP, personal disputes, and HLP, including tenancies and evictions. There is flexibility, so if a particular problem is identified or a new law or regulation is passed, INTER SOS conducts sessions on these issues, e.g. when INTER SOS teams found that fraudsters were pretending to be UNHCR and taking money from refugees for resettlement, they arranged legal awareness sessions in the refugee camps about that issue; when fines were introduced for people not wearing masks because of COVID-19, INTER SOS ran legal awareness sessions about the new laws.

Like legal awareness sessions, **legal counselling** tends to be on a wide range of topics, such as family law, labour law, work permits, HLP, inheritance law, detention, criminal law, as well as on civil documentation. **Legal assistance** tends to focus on a narrower range of topics, with a large proportion of the cases being about obtaining civil documentation. Recognising a significant demand for assistance on HLP, INTER SOS is increasingly involved with assistance on this topic. For example, in Lebanon INTER SOS has provided legal assistance in an increasing number of eviction cases, providing mediation between the refugee tenant and the house-owner, as threats of eviction have grown significantly since the

COVID-19 crisis. In Iraq, the number and urgency of HLP issues has grown as IDP populations attempt to return to areas of origin, and require assistance proving ownership of property to reestablish their households. In some settings, in HLP and other cases INTERSOS provides support for mediation. This is a recognised process in some countries' laws and can provide a solution without the need for a court case, e.g. in Yemen, in civil cases such as disputes between landlords and tenants, between spouses, etc. In some settings INTERSOS runs legal clinics - physical spaces (often a separated structure in the same compound as their field offices) dedicated to the provision of legal services. These will be composed of a room for group activities, like legal awareness, and one or more small offices used for individual or family legal counselling and assistance meetings.

When **legal representation** is provided by INTERSOS, this is usually for gender-based violence (GBV) and child protection (CP) cases. For GBV cases legal services may involve representation in a variety of court proceedings, such as divorce, alimony, custody and protection orders. Legal services in camp settings, for example in IDP camps in Iraq, sometimes involve lawyers working to obtain a letter from camp management refusing the perpetrator access to enter the camp. For CP cases, legal services may involve representing children affected by early and forced marriage, sexual exploitation, child labour, and Juvenile Court cases, as well as child custody issues.

In some settings, legal representation might include general family law, personal status court issues, e.g. obtaining marriage or birth certificate, proof of parentage; and residence documents, and also immigration status-related detention, and opposing deportation/extradition applications.

## Case study: Legal assistance in GBV and CP cases

### “Legal assistance protects children from sexual violence”

Two young children of a Syrian refugee family were exposed to sexual harassment and assault by their Lebanese neighbour. He had harassed and sexually assaulted many other children in the area and threatened to kill them if they told anyone. This family contacted INTERSOS through the hotline, and they were provided with legal counselling. As a result, they decided to file a lawsuit against the perpetrator and to seek a protection order to keep their children safe. INTERSOS provided ongoing support throughout to help them resolve this case and defend their children's rights. The family needed a lot of accompaniment and advice through this process, as it involved many stressful elements, such as questioning of the family members including the children, and medical examination of the children. With INTERSOS legal assistance, the family pursued this case through to its conclusion and the conviction and imprisonment of the perpetrator. This outcome provided protection not only for the children of this family, but also for all children (refugee and host community children) in the area.



*A woman in Mosul, Iraq, receives legal assistance services from an INTERSOS lawyer to help her obtain birth certificates for her children.*



The scope of representation provided may depend on political and community sensitivities in different contexts, often in relation to representing defendants in criminal cases. However, this type of decision about the scope of legal services to be provided in a fragile or conflict-affected setting requires project managers to regularly re-assess to consider the changing environment.

Whenever possible, INTERSOS' legal representation would cover the whole range of legal services, including civil lawsuits, and also representation of defendants in criminal cases, and legal services for detainees, and those facing deportation or extradition, as well as legal services for people from host communities, returnees, migrants, and IDPs. Apart from these, INTERSOS' legal services focus on civil documentation needs, with a significant minority of legal services focused on providing legal support in GBV and CP cases. The scope of these services would depend on available funding and capacities to assist.

INTERSOS assesses the need for their legal services in each setting, and switches area of focus if there is no longer a gap in provision on an issue. For example, in Lebanon INTERSOS used to provide legal services in criminal cases for children in conflict with the law in 2019, but in 2020 they stopped working on this, as the Bar Association in North Lebanon started covering this area of work.

## 4. LEGAL AID VS ADVOCACY TO CHANGE LAWS AND POLICIES

In many States, the legal and policy environment discriminates against marginalised and vulnerable people, and some organisations have focused their attention on advocacy to seek changes to these structural issues rather than on direct legal services provision. Often humanitarian agencies can end up focusing on responding to problems, rather than on attempting to prevent them. For example, when there is a rise in evictions of IDPs, interventions and advocacy with the authorities on evictions policy, on rules for landlords and on addressing the problem of discrimination against IDPs, may be more effective, rather than assistance to individual affected IDPs alone. INTERSOS recognises the importance of advocacy to change laws and policies and therefore supports and works closely with the collective advocacy undertaken by humanitarian coordination mechanisms such as Protection Clusters and Legal Working Groups.

INTERSOS welcomes the work of the Global Protection Cluster's Task Team on Law and Policy (TTLP)<sup>2</sup> - a global platform for coordination among UN agencies, NGOs and other relevant stakeholders on law and policy engagement - which is defining benchmarks for laws and policies relating to the treatment of IDPs and other populations affected by internal displacement, and is conducting studies in several States to consider whether their laws comply with the benchmarks. Based on the gaps identified through these studies they will be able to focus their advocacy on these gaps in law and policy, using global lobbying, working with parliaments and with national authorities. Upon suggestion of some members of the TTLP, the Task Team is currently exploring how to strengthen synergies between the TTLP portfolio and the legal aid work in which many of the Protection Cluster Members are involved. INTERSOS hopes to be in a position to contribute to such processes by its ability to follow up the implementation of changes in legislation and policy in practice, through its field-level information. Engaging in direct legal aid provision has the potential to provide essential information for advocacy.

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<sup>2</sup> The mission of the Task Team is to: a) Support governments and local authorities in discharging their responsibilities regarding IDPs and other populations affected by internal displacement by promoting and supporting states' efforts in developing and implementing domestic normative frameworks relating to the protection of IDPs; b) Support field clusters, operational partners, and other relevant stakeholders in contributing to the development, implementation, and monitoring of relevant normative frameworks relating to the protection of IDPs.

INTERSOS considers that, alongside this advocacy, direct legal services provision, legal advice, accompanying clients and giving them information is also essential to individuals and communities. Even when the legal and policy environment is problematic and limits the ability for legal aid actors to assist, affected individuals and communities need assistance and it can often be possible to find strategies to provide some form of legal assistance despite the legal and policy obstacles.

There are situations where the attempt to resolve a problem for beneficiaries despite a negative policy environment can create its own dangers. For example, in Yemen the impetus to provide civil documentation for IDPs has resulted in a transitional agreement with the authorities to accept temporary identity cards for IDPs that include a stamp identifying them as IDPs unlike the identity cards of other citizens, which creates further problems for the person holding the card. While these temporary cards do have some uses, such as enabling access to cash assistance, they do not resolve IDPs' issues related to freedom of movement, as they formalise their marginalised status. This is an example of a focus on just providing documentation to beneficiaries taking precedence over addressing structural discrimination against IDPs.

## 5. IDENTIFYING THOSE IN NEED OF LEGAL AID

INTERSOS identifies persons in need of legal assistance in the following ways:

- During legal awareness raising sessions
- Through internal referrals
- Through external referrals
- Through self-referral: where INTERSOS is running facilities open to beneficiaries (e.g. community centres, drop-in centres, mobile units etc.)

### 5.1 ELIGIBILITY

In order to be considered for some legal services, INTERSOS requires that a client must meet certain criteria, which are usually tailored at mission level on the basis of the specificities of the local context, target population needs and scope of INTERSOS programming in the country. Generally, the assistance should aim at targeting the most vulnerable individuals who are most in need of receiving legal support, and therefore usually answer to a combination of the two following sets of criteria:

- Vulnerability criteria: forcibly displaced individuals and communities, including People with Special Needs, people affected by GBV and CP issues; these can be potentially combined with additional requirements, e.g. duration, reason or area of displacement. Cases can also meet multiple criteria: the more vulnerability factors a case has, the more highly it should be prioritised;
- Technical legal criteria: e.g. lacking specific legal or civil documentation; needing to undertake an administrative or judicial proceeding; being in detention etc.

INTERSOS requires that vulnerability and legal criteria for eligibility for legal services are adapted to the local context and clearly explained in each operational country's SOP. Therefore SOPs at mission level should state the specific eligibility criteria that clients need to meet to qualify for legal assistance or for legal representation. In every emergency, some groups or individuals will face heightened protection risks because they have specific needs and because many safety networks break down or even become the cause of new risks. Legal staff should be trained on safe identification of vulnerable individuals requiring protection and legal assistance.

No eligibility requirement is used for legal awareness sessions, which anyone can attend. Similarly for legal counselling – often conducted with those seeking individual support after a legal awareness session – there are no eligibility requirements. INTERSOS' graduated process of legal awareness sessions, leading to legal counselling, which may then move on to legal assistance and/or representation is helpful in enabling legal staff to assess those beneficiaries in the greatest need of legal services and

for whom the legal services will be the most useful. Using a standardised assessment form, legal staff assess how a beneficiary is at risk, and also what the outcome of receiving the legal support would be in their case and whether it would solve a protection problem. For legal assistance and representation, the beneficiary needs to demonstrate that they are not able to complete the process themselves, e.g. because the process is too complex for them to complete without assistance or because they cannot afford the fees required for the process, etc.

Given that all people without documents are quite vulnerable, INTERSOS has high, medium, and low categories for prioritisation for assistance. In Jordan INTERSOS conducts an initial assessment which ends with a vulnerability score. They then conduct an in-depth assessment and take cases according to vulnerability.

## 5.2 DEMOGRAPHIC GROUPS IN NEED OF PARTICULAR LEGAL SERVICES IN HUMANITARIAN SETTINGS

### **Women**

Women are frequently in particular need of legal aid services in cases relating to GBV. Women are likely to face an array of challenges in such cases, including security issues, and to need holistic assistance with other support services, such as shelter and livelihoods, if it is to be viable for her to pursue her legal case. It is unsurprising that most women end up dropping their legal cases – due to pressure from the community, the shame or stigma of offending her family, together with fear of the perpetrator or of losing her children. In some countries women often drop their cases because the perpetrator may be a member of a non-state armed group or the army. GBV survivors have to live in the community with the perpetrators, who may be in positions of power. The complexity of these cases requires staff with expertise in dealing with GBV, in order to avoid the risk of doing harm. In many GBV cases women want to only deal with female staff, including lawyers, which can create difficulties in areas where it is hard to recruit female lawyers. Despite these significant challenges, when these cases are successful the benefits go beyond the individual case and can encourage other survivors to pursue their cases and can deter potential perpetrators.

In many of INTERSOS' legal aid programmes the majority of beneficiaries are women, as there are so many female-headed households in the displaced communities with which they are working, and they are more likely to meet the vulnerability criteria for eligibility for services. Apart from GBV cases, women are often in greater need of legal support for issues like obtaining documentation and property and inheritance issues, and may face greater challenges. For example, in some parts of Afghanistan a woman needs a male chaperone to pursue her documents, families may not allow her to pursue the obtaining of her identity document, as a photograph is required and a male official needs to see her face as part of the process.

### **Children and youth**

INTER SOS provides legal services to many children, often to obtain their documents, so that they can access school and other services, including healthcare. There is also a frequent need for legal services to assist young people in CP cases, when they are faced with child labour, forced and early marriage, and sexual exploitation or violence. In some countries, 15 – 30 year old young men are most at risk of being arrested at checkpoints if they do not have their documents.

### **Older people**

In Iraq INTERSOS has discussed the need to target older people more for legal services – to assist them with getting their retirement money/social security.

### **Minorities and Stateless Populations**

INTER SOS does not have a particular programme for legal services for minorities. They will usually

be included in the category of vulnerable groups, eg. the Muhamasheen in Yemen. For stateless populations and those at risk of statelessness, legal assistance with accessing documentation is of particular importance.

### **Refugees, asylum-seekers, and migrants**

Refugees, asylum-seekers, and migrants have different documentation issues and residence rights. Asylum-seekers have to go through refugee status determination processes (unless they have prima facie recognition). They are often denied freedom of movement, and at high risk of exploitation, e.g. by employers and landlords if they do not receive legal support. They may also be at risk of status-related detention. Some face risks of deportation or extradition, leading to particular needs for legal support. Further, they often face significant discrimination, and may be scapegoated when a crime has been committed, resulting in false criminal charges and the need for legal representation in criminal proceedings. In order to access durable solutions, certain civil documentation is generally required, e.g. to access exit visas.

### **Internally Displaced People and Returnees**

Although they are citizens, IDPs and returnees often face significant discrimination and issues in obtaining their documentation. Without their documents, IDPs often face restrictions of their freedom of movement, and may not be able to leave IDP camps/settlements. IDPs may be discriminated against in housing, and both IDPs and returnees often have greater need of legal services on HLP.

### **People with disabilities**

Obtaining civil documentation can be of particular importance to people with disabilities for access to services – for specialised healthcare, for special education etc.

## **5.3 OUTREACH CAPACITY FOR LEGAL SERVICES**

INTERSOS puts a lot of emphasis on reaching people in more remote or marginalised communities. This requires building relationships – with community leadership, and with whoever controls the territory – to negotiate access. INTERSOS often uses mobile teams that rove between communities, and this includes legal staffing. These mobile activities increase outreach and enable INTERSOS to provide legal services to people in hard-to-reach areas who are often in great need of legal aid but who rarely receive assistance. INTERSOS selects the areas for outreach where they know they will reach marginalised people, e.g. in Yemen they choose the areas for legal awareness sessions where many IDPs and marginalised people are residing. During mobile outreach activities, INTERSOS legal staff sometimes work alongside other INTERSOS teams providing other services, e.g. health or protection, and provide legal awareness sessions for people waiting in line for the other services.

In some settings where INTERSOS has not been granted access to provide legal services in a particular area, communication with beneficiaries is such that they are able to travel to meet with the INTERSOS legal team in another area.

INTERSOS community outreach is enhanced in some settings by building teams of community legal volunteers and paralegals. INTERSOS has tended to build these teams in refugee communities, with the aim of reaching out to all refugees and ensuring that those in need are referred for assistance, and of training members of the refugee community on legal issues in their host country. In Lebanon, INTERSOS has 83 Syrian outreach volunteers (who are provided with incentive payments) and also protection monitors. They also have paralegal focal points in the refugee community, who they have trained to identify cases and refer them, and to provide legal awareness. They are INTERSOS' link with the refugee community. In Yemen INTERSOS has community paralegal volunteers in the refugee community (who are provided with incentive payments). INTERSOS has found that community volunteers can be a real asset for legal aid outreach work, but only if time and effort is invested in identifying the right people to volunteer, coaching, training, and monitoring them.

COVID-19 has created difficulties for provision of legal services in many places - with intermittent closures of courts, loss of judicial and legal staff, and reduced access to beneficiaries. But it has also highlighted the potential for some legal services provision using remote means, such as providing services via phone or via internet apps, and some INTERSOS operations have seen this work well. In the Kurdistan Region of Iraq (KRI) since the COVID-19 outbreak INTERSOS conducts legal awareness sessions daily via conference group calls to refugees' houses when a legal problem is identified that they want to discuss. In Lebanon, staff noted that this new remote modality of legal counselling by phone - forced on them by COVID-19 - saves time and fuel costs and enables them to target more people for legal services than previously. However, this does not work in areas where there is limited access to mobile phone coverage or to the internet, or in communities where cultural attitudes prevent women from using phones. In Iraq since COVID-19, legal awareness and counselling was conducted by phone – group phone calls, or one-on-one counselling.

## 5.4 COMMUNICATING THE EXISTENCE OF LEGAL SERVICES

The existence of INTERSOS' legal services is often communicated via other INTERSOS services, especially case management and protection monitoring. But other methods of communication are also used. In Cameroon and in Jordan INTERSOS makes radio programmes about legal issues, using radio for legal awareness sessions and informing people of how to access justice, and this leads to some self-referrals to INTERSOS for legal services. In Lebanon INTERSOS has a legal desk in the UNHCR office and staffs this desk once a week; this ensures that all of the beneficiaries who visit the UNHCR office know of INTERSOS' legal services. In many places INTERSOS operates free telephone hotlines for beneficiaries to call, and also distributes leaflets, often via other international and national/local NGOs. The outreach teams lead to referrals, and other organisations also refer clients to INTERSOS' legal services. INTERSOS in Iraq has a Facebook page in English, Arabic and Kurdish to inform about all INTERSOS services, and also provides information about their services and accepts legal referrals from the Iraq Information Centre run by UNOPS.



## Case study: Communicating the existence of legal services – Cameroon

### “Facilitating access to justice for more beneficiaries”

INTERMEDIATION in Cameroon has put in place communication and information mechanisms on its legal services, such as its legal clinics. These mechanisms are varied and diverse, including:

- CRTV Radio: Although this radio station transmits in Extreme North in Kousseri city, it is used to disseminate the information that legal assistance is one of the services available with INTERMEDIATION. The languages of communication are French and the local languages (Arabic shoa, Fulfulde, Kotoko and its variants). The broadcasts are recorded and redistributed in safe spaces and child-friendly spaces alongside the psychosocial activities conducted there.
- Free telephone hotline: This is a gateway for protection cases but it also serves as a means of information on the services available, such as legal assistance.
- Community awareness: During prevention activities carried out in communities, topics related to legal assistance and civil documentation are discussed so that beneficiaries can understand about this available service.
- Distribution of information leaflets with mapping of actors and services, which includes the availability of legal assistance at INTERMEDIATION.



*Distribution des actes de naissances aux enfants vulnérables dans l'arrondissement de Darak, Logone Chari Extreme Nord du Cameroun.*

## 6. PROVISION OF LEGAL SERVICES

### 6.1 PROCEDURES AND GUIDELINES IN PLACE FOR PROVISION OF SERVICES

INTER SOS has global guidelines for legal services, which set minimum standards and require local SOPs to be developed. INTER SOS has found that standardisation of legal services within an operation is required in order to ensure that all legal services meet minimum standards. This has to be done at national and local level to take into account specific contexts and legal frameworks. For example, there is a single INTER SOS SOPs for Iraq but it includes different supporting documents adapted to federal Iraq and KRI legal frameworks to include local specificities.

INTER SOS has a number of key requirements for its legal services:

- SOPs on legal services are developed and rolled-out at national level
- Adherence to the core principles of implementing legal activities must be ensured through country SOPs reflecting them, as well as through constant supervision, monitoring and evaluation
- Vulnerability and legal criteria for eligibility for legal services are adapted to the local context and clearly explained in the national SOPs
- All clients must give their consent and sign the consent form in order to proceed with legal services
- Legal cases must be individual: each file should be given a case code and assigned to a specific legal team member
- Legal team members are trained on referral of cases, and are provided with updated maps of services available, including for emergency and contact lists for referrals
- Steps of legal services procedures are detailed in the national SOPs, with specific regards to each type of legal services provided by INTER SOS in the country
- Accountability systems are developed and are fully functioning
- Data Protection Protocols are developed and rolled out at mission level where legal services are provided

### 6.2 LEGAL AWARENESS

Legal awareness sessions are an important part of INTER SOS' legal work. The goal of legal awareness sessions is to provide groups of people with general information on issues relating to administrative or legal procedures, available services and rights in the country of intervention. Legal awareness sessions can be conducted in the field with mobile units or at other venues.

In order to successfully carry out legal awareness sessions, INTER SOS takes the following steps:

- Identify a session topic: topic identification should consider the needs, interests and opinion of the community, and the observed gaps in knowledge regarding legal issues.
- Prepare an outline of the awareness session
- Prepare informational materials: successful awareness sessions require a facilitator to be engaging and provide information in a clear and coherent way, that is easy to understand for nontechnical non-legal specialists. Use of information materials (such as power point presentations with pictures, use of symbols and images for those who cannot read, and brochures/posters) is highly encouraged for effective information dissemination.
- Inform communities: if possible, inform community members in advance, so that they can plan to attend on the scheduled date and time.
- Answer questions: leave sufficient time at the end of the session to answer questions and refer people to legal counselling as needed.
- Conduct jointly with legal counselling: hold legal counselling sessions right after the awareness

sessions, to immediately attend to questions that may arise about specific cases. When this is not possible, the basic contact information of participants interested in individual counselling must be noted and communicated to the Legal Team, or information should be provided to the participants over how to access legal services.

## 6.3 LEGAL COUNSELLING

The goal of a legal counselling session is to provide individual advice on a particular legal issue or procedure. Clients for legal counselling can be identified at awareness sessions, be referred internally or externally or spontaneously seek support.

The first step of legal counselling is to ensure that there is a confidential, quiet place where the counselling can be conducted. The legal team member(s) conducting the counselling should clearly introduce themselves and the process of legal counselling, as well as collect the client's consent to gather information and continue with the process. The clients should then be given time to explain their legal problem, and the legal team member(s) should provide information on how the client can proceed with the legal process needed.

Information should be explained in simple language and idioms fully understood and spoken by the client. Should the client not understand or speak the language used by the lawyer, a translator – bound by the same principles of confidentiality - must be present. Important information should also be given to clients (through leaflets, specific instructions in writing, etc) in order for them to be able to navigate the process autonomously.

Effective legal counselling entails ensuring that a client has understood the provided information and leaves the session ready and able to complete his/her needed legal process on his/her own. In order to ensure a client has fully understood, it is recommended to ask the client to explain back to the legal counsellor the steps the client needs to take. His/her response can show whether more information and explanation may be required. If, at the conclusion of the legal counselling session, it is deemed that the client will be unable to complete the process autonomously, the case should be referred for legal assistance.

## 6.4 LEGAL ASSISTANCE

INTERSOS legal assistance is aimed at assisting the client through the entire legal or administrative process required. Once a client is found eligible for legal assistance and consent is obtained for this specific service, the lawyer should make a case plan on how to secure the required service. The plan should be discussed with the client to make sure s/he fully understands the process and what will be required from him/her (e.g. going to specific offices, providing certain information or documentation, etc). Depending on the case, lawyers might accompany clients to the required offices in order to directly facilitate the process. However, it should be explained to the client that the lawyer might not be able to accompany the beneficiary in certain phases or locations (e.g. within some security facilities in which access is restricted).

Cases receiving legal assistance might include support with expenses connected to the procedure at hand. The potential costs to be covered might include standard procedural fees, printing, photocopying and stationary costs, and transportation costs.



## 6.5 LEGAL REPRESENTATION

Legal representation is provided to those clients in need of a lawyer to defend them, typically in court proceedings. Usually, INTERSOS offers legal representation services to specific categories of clients, such as GBV survivors or individuals needing support with family law cases (divorce, alimony, custody, etc.). Procedures in providing information on legal representation are the same as procedures for legal assistance: clients should be provided with clear and complete information on what will happen during the legal representation, as well as on any potential challenge or negative effect that the procedure might cause. It is recommended that this information is provided during the first meeting, to allow some time for the client to decide whether s/he wants to continue with the process or not, thus giving his/her informed consent. The lawyer accompanies the client to all relevant offices/courts and some expenses and fees related to the proceeding might be covered by INTERSOS.

## 6.6 CONFIDENTIALITY

Confidentiality is vital for legal services, and a challenge in humanitarian settings. INTERSOS has clear and strong confidentiality rules that are mandatory for staff, including data protection protocols. Both confidentiality and data protection guidelines related to legal services are embedded within the global guidelines and country level SOPs.

The first challenge is often finding a confidential space to have a legal consultation, if the service is not being provided in an office or community centre. When meeting beneficiaries in, for example, a village setting, it is imperative to find a confidential place to run these activities, and it can be identified during a preparatory phase together with local authorities and local communities.

With the current COVID-19 situation, more legal consultations for counselling or advocacy take place over the phone.

The provision of legal services involves handling sensitive information, which must be managed in a safe, confidential and responsible way to protect the clients' safety and security. In order to comply with the principles of confidentiality and do no harm, all INTERSOS staff dealing with clients' data are required to have a solid understanding of the sensitive nature of the data, the importance of confidentiality and of the procedures to be followed to maintain the highest standards of data protection.

### 6.6.1 DATA PROTECTION PROTOCOLS

Compliance with the above principles are ensured at country level through Data Protection Protocols developed by each INTERSOS mission. These should cover paper file security, rules relating to transportation of case files, electronic data security, and action to be taken in the event of a data breach or loss.

Where possible, legal cases should be entered onto a dedicated Legal Services Database. Where the context allows - in terms of availability of internet connection, mission IT capacity etc - such database should be online. This database can show all opened legal cases in a project area. Lawyers and legal assistants are responsible for ensuring that all case data is updated on the database on a regular basis. The Legal Services Database requires the input of biographical information, legal concerns/types of service needed and updates for each case. All legal staff members should be trained on how to enter information into the Legal Services Database.



## 6.7 LEGAL SERVICES AS PART OF HOLISTIC PROTECTION PROGRAMMING

INTERSOS finds that including legal services within its protection services, rather than having stand-alone legal services, is of great importance in order to provide a holistic service. INTERSOS considers it necessary for legal services to be provided as part of an overall package. It creates better acceptance in communities and by local authorities, since they know and trust the organisation already through its other services. This also enables referrals of particularly vulnerable people for legal services. For example, for GBV work a holistic response is required. It is essential to have safety plans in place for the survivor who decides to proceed with legal proceedings, and therefore it is very helpful to be able to make internal referrals to get assistance for shelter support etc.

There is a strong linkage between INTERSOS' legal services and other sectors of INTERSOS work, especially for referrals. In Lebanon at the end of 2019 INTERSOS tried out a mixed modality – with protection and legal staff working together with clients. This was working well and was showing promising results, but was stopped due to COVID-19. INTERSOS has found that having a mixture of multi-disciplinary staff and protection and legal staff is very important. Another example in Lebanon is the emergency cash assistance team that works closely with the legal team. This has been useful to deal with an increase in North Lebanon of landlords and hospitals confiscating refugees' identity documents, because of non- or partial-payment. INTERSOS lawyers try to mediate with landlords and hospitals in such cases, and it is helpful for them to have the possibility of paying off part of the debts, via the emergency cash assistance team, as part of the agreement, reducing the risks of eviction. INTERSOS has found it to be good practice for all staff in a mission to be trained on the work of the other sectors providing services in that mission, and this applies also for legal staff.

## Case study: Legal services as part of holistic protection programming – Afghanistan



*A INTERSOS lawyer provide legal awareness on GBV- Psychological and emotional abuse in Yemeni Law for a group of men in Al Qaeda City – Ibb governorate.*

### **“INTERSOS legal support together with cash assistance and livelihood support gets children into school”**

Two brothers aged 12 and 13 participated in an INTERSOS awareness session on COVID-19 and protection. As usual, at the end of the awareness session, community members received information and counselling on the services provided by INTERSOS. The two boys met with an INTERSOS case worker and shared their story and concerns, highlighting the tough work they did in the fields and their wish to attend school instead, to get an education and improve their life and that of their family. They said that their parents did not allow them to go to school, as they needed them to work in the fields owned by other villagers, to earn some money and help support the family. Their work involved long shifts in the fields under the scorching sun, and heavy tasks not suitable for young children. The boys lacked their Tazkera (national ID), and therefore were not eligible to join the local public school.

With the support of the community volunteers and of INTERSOS case workers, the parents were invited to participate in three awareness sessions on child labour, the importance of education and other child protection topics, and they received information about the hazardous impacts of child labour on children and discussed these topics with INTERSOS staff and with other community members.

Male and female case workers met respectively with the father and the mother, individually, to address their concerns: the biggest issue raised by the parents was the income they receive through their children’s work, crucial to sustain the family. If this income would be cut due to their going to school, the earnings of the father would not be sufficient to address the family needs. INTERSOS suggested that the mother could take part in INTERSOS’ livelihood training, to help her earn some money to support the family and compensate for lack of income from the children. INTERSOS case workers referred the cases to INTERSOS’ lawyer, who explained in what ways the family could be supported (financially and logistically) to obtain the Tazkera, required for the children to be enrolled in school. These suggestions were welcomed by the parents. INTERSOS therefore proceeded with supporting the issuance of legal documentation (through counselling by INTERSOS’ lawyer on the bureaucratic steps to be taken and financial assistance to cover the related expenses: transportation, legal fees, copies), facilitating the re-enrolment in local classes of the two children and the enrolment of the mother in the livelihood training.

Now the father works on a daily wage basis, while the mother is attending the course in tailoring (including a section on how to produce face masks, now in high demand due to COVID-19) and the children have received legal documentation, and education kits, and have been enrolled in school.

## 6.8 CASE MONITORING AND ACCOUNTABILITY

INTERSOS requires that its legal services should be regularly monitored at various levels: by the supervisors within the missions' legal teams and by the Monitoring and Evaluation (M&E) staff, when present at mission or project-level. Monitoring of legal cases should be carried out through the following methods, among others:

- **Spot Checks:** ideally conducted on a monthly basis by staff external to the activities implemented (e.g., programme or admin/support staff should conduct the spot checks if dedicated M&E staff is not available), to gather beneficiary feedback and ensure that Lawyers and Legal Assistants are conducting all activities in line with SOPs;
- **File Audits:** on a monthly basis and on the caseload of each legal team member, ideally conducted by the Legal Officer. File audits should include a thorough review of physical files and, when present, of the online Legal Database, to ensure that all information has been gathered and entered correctly, and that the most appropriate course of action has been taken accordingly;
- **Client Feedback:** client feedback surveys should be conducted with clients with cases either currently open or recently closed.

Given the high risks connected to protection, safety and fraud when it comes to the provision of financial assistance, a particularly careful monitoring needs to be conducted for a legal caseload that includes covering the expenses and fees connected to the legal procedures.

As for accountability, clients of legal services must always be given access to mechanisms established at mission or project level for beneficiaries to provide their feedback or submit their complaints with regards to the assistance they have received. INTERSOS staff are strongly encouraged to familiarise themselves with the Core Humanitarian Standard on Quality and Accountability (CHS)<sup>3</sup>.

The monitoring and accountability processes are adapted to the context of the legal aid projects being provided. In Iraq, the protection manager supervises all the teams. Under them, the legal officer supervises the legal team leaders, who supervise the lawyers. The legal officer shadows some sessions with the lawyers, and if anything is of concern about the lawyers' performance or behaviour they report to the protection manager. Lawyers have daily, weekly and monthly plans, which are monitored and they are given daily supervision. In Yemen, lawyers (who are consultants contracted to work for INTERSOS on a case-by-case basis) have to submit a follow-up form to INTERSOS every day on each case, after each action – to report, even if the case was just adjourned.

In Iraq an online legal platform is being rolled out for use by INTERSOS legal team, which will increase remote oversight of cases, and enhance analysis of trends through the automatic provision of statistics available at project, location and mission levels. Up until this point they have been reviewing physical files and using an excel database to track cases, which has been difficult with COVID-19.

## 6.9 STAFFING OF LEGAL SERVICES

INTERSOS uses the services of lawyers who are members of their local Bar Associations in the countries in which INTERSOS is offering services. INTERSOS has concluded that recruiting - or having consultancy contracts with - qualified lawyers is required for building credibility and trust with the community. In some settings this is necessary even when some of the activities they undertake do not technically require a qualified lawyer. A rigorous recruitment process is essential. INTERSOS makes it very clear during the recruitment process that a basic requirement will be full compliance with humanitarian principles.

<sup>3</sup> Core Humanitarian Standard on Quality and Accountability:

<https://corehumanitarianstandard.org/files/files/Core%20Humanitarian%20Standard%20-%20English.pdf>

Due to the sensitivity and the technical nature of the provision of legal services, particularly to vulnerable individuals, INTERSOS has determined that its legal teams at mission level should:

- Be composed of qualified, trained and well-supervised legal staff (i.e. lawyers, paralegals, law graduates);
- Maintain a gender balance as much as possible;
- Receive an initial in-depth training on legal services principles and procedures, as well as on protection and on safe identification, and an ongoing capacity-building through trainings, coaching and mentoring.

Legal team members have different roles and responsibilities in the provision of legal services:

- **Lawyers** who are legally authorized to practice law in the country of intervention, as members of the local bar association;
- **Legal Assistants** hired to support with legal services that do not require a licensed lawyer, and
- **Legal Officers** with a supervisory and coordination role, when and where deemed necessary on account of the complexity and/or scale of the legal services provided in the mission.

INTER SOS missions with a particularly significant portfolio of legal services also aim to include additional positions within their legal teams, such as **Legal Team Leaders** (answering to the Legal Officer and supervising the legal services provided in a certain geographical area) and a **Legal Specialist** (answering to the Protection Coordinator and providing strictly technical supervision and support).

In Lebanon INTERSOS has a Memorandum of Understanding (MoU) with the Tripoli Bar Association, and INTERSOS pays lawyers who are members of the Bar Association to represent beneficiaries. Lebanese law, like Yemeni law, does not permit NGOs to employ lawyers, as they are required to only work for the Bar Association and not to have a contract with another organisation. When selecting lawyers to use, INTERSOS requires that they undertake INTERSOS' own recruitment process, which includes significant content on the humanitarian principles and an attitude test, as well as checking references. In Lebanon the recruitment process addresses questions related to the need for lawyers to be impartial and neutral in their work, despite any community and religious affiliations. In Yemen INTERSOS has more than 40 qualified lawyers working as consultants. The consultancy contracts can create some difficulties, since by their nature consultancy contracts mean that one cannot always insist on the time commitments that might be needed at certain points. INTERSOS has found that recruiting lawyers who are well-known and respected in the community is vital for gaining the community's trust for the legal services and for reducing security problems. In Iraq, INTERSOS employs more than 50 legal staff, all Iraqi, on direct employment contracts.



## 7. CHALLENGES & CONSTRAINTS

There are some particular challenges, constraints and potential risks (to beneficiaries, staff, the agency's operations and reputation) that are specific to the provision of legal services, on top of the general challenges, constraints and potential risks inherent in operating in conflict-affected and fragile settings.

### 7.1 ACCESS AND SECURITY ISSUES

As with all humanitarian work, legal aid work requires permission of authorities, or negotiation with whichever actor is in control of the territory - without this access can be blocked. Sometimes there can be differences of opinion between national and local authorities about granting access, which results in a blocking of access. This is common to all humanitarian work, but there can be particular political sensitivities in providing legal services that creates greater potential access problems. For example, legal teams that are trying to engage in monitoring of places of detention and offering legal services to detainees often experience particular problems in obtaining permission from the authorities to access detention centres.

Assisting clients to obtain civil documentation can also be politically sensitive in some settings. For example, in one country INTERSOS staff are unable to assist most refugees and accompany them to the authorities for renewal of their residence permits, because of lack of authorisation to provide this accompaniment.

In many conflict-affected and fragile States, obtaining civil documentation can be viewed as a political act, demonstrating allegiance to the authorities issuing the documentation. The vast majority of people applying for civil documentation do so for very practical reasons, e.g. so that their children can access schooling or healthcare, but in some settings they are aware of the potential risks involved. For example, in some countries where non-State armed groups continue to try to take over territory, there are some communities that are sceptical about the benefits vs the risks of obtaining a government-issued identity document, as it could be seen as "taking a side"/being pro-government, and these communities do not know who will end up being in control of their area.

There can be a risk of lawyers being seen as affiliated with the government in contested areas. In one country, INTERSOS recruited a lawyer who resigned after a couple of weeks. He had feared roving to the communities to which the mobile teams were going, because he anticipated potential security risks, as could be seen as an envoy of the government. This is a risk that lawyers can face in certain settings.

In one country where INTERSOS is working there can be resistance by community leaders to seeking legal documentation, in areas affected by conflict, where a non-State armed group is seeking secession and stating that they intend to issue their own documents if they take power. INTERSOS staff and volunteers have faced attacks and threats to their safety for conducting a legal awareness session on civil documentation, resulting in suspension of this work.

For those who are perceived to be affiliated with armed groups, applying for documents can involve risk, as it involves security checks which could result in them being detained and arrested.

There are risks to INTERSOS' overall programmes and reputation if they are accused that by their legal services provision they are supporting people affiliated with a particular faction/armed group/government. These risks come from the authorities and from the community. But it is often the people who are perceived to be affiliated with armed groups who are in the greatest need of legal services. In Iraq, if a person had a family member suspected to have been affiliated with armed groups, even if he is now missing or dead, and even if they were not themselves involved, they may face difficulty to obtain their civil identity papers without formally renouncing their family member (Tabriya process), and as a result can face constraints on their movement and ability to return to areas of origin.

Lawyers can feel threatened by the authorities for representing people who are perceived as affiliated with armed groups, as the authorities may object to any support being provided to people accused of having such an affiliation. Security clearance is first required for obtaining civil documentation in such cases, and embarking on this process can even result in the arrest of the lawyer. INTERSOS has had legal staff detained, e.g. because they obtained a birth certificate for a child whose father was perceived as affiliated with an armed group, even when the legal team was unaware of the allegations against the child's father.

There are potential risks of threats and violence/retaliation to both beneficiaries and legal staff in taking on some legal disputes between family members, especially in alleged GBV and CP cases. Rigorous risk assessments are needed to determine when/if the time is right for providing these legal services, e.g. there are currently some areas in south Afghanistan where this may not be currently possible. The risk always persists of receiving threats from husbands in family law cases.

For example, in Iraq an INTERSOS lawyer was physically attacked by the husband in a GBV case in which he was representing the wife. INTERSOS reported the case of assault of the lawyer to the police, but no action was taken. There can also be risks attached to providing legal support to women in such cases, with the accusation that the agency is not respecting cultural or religious traditions, or that they are not respecting informal (religious or customary) justice systems, or seen as promoting divorce.

In Yemen representing refugees in criminal cases can lead to threats from the host community to lawyers, but the authorities provide support, and INTERSOS uses experienced lawyers who are used to dealing with such problems and overcomes the problems through good relationships with the authorities, and by good human resources.

In Yemen, members of the Protection Cluster have found that many people, especially the most marginalised, are afraid to report violations of their rights or to take legal action; e.g. IDPs fear retaliation; women fear defamation of their character and stigma; the minority group, the Muhamasheen, fear physical violence and death threats.

Asylum-seekers and refugees with politically-sensitive claims of persecution can sometimes remain at risk from actors from their country of origin even in the host country in which they are seeking refuge. INTERSOS legal staff representing asylum-seekers and refugees who are defending them in deportation or extradition proceedings in such situations have experience of receiving anonymous threats from unidentified phone numbers telling them not to provide support for their clients in such cases. Sometimes UNHCR has arranged emergency resettlement for clients in such circumstances.

## 7.2 LEGAL AND POLICY FRAMEWORKS THAT IMPACT NEGATIVELY ON BENEFICIARIES

In many settings in which humanitarian actors operate there are significant limitations on what a lawyer can achieve for their clients because of the national legal and policy framework in place. For example, there are States where the rules on extension of residency are so restrictive that hardly any refugees are eligible and lawyers are restricted in their permission to assist them. There are a number of States where it is difficult to achieve justice for survivors of rape, because the law on rape, involves the law on adultery and requires witnesses.

## 7.3 INTERSECTION WITH TRADITIONAL/CUSTOMARY/RELIGIOUS LAW

Often communities will prioritise the use of alternatives to the formal justice system. Whilst this may be useful in many cases, these informal mechanisms tend to favour those in power, and therefore women and less powerful tribes tend to be disadvantaged by using them rather than the formal system. Parallel tribal mechanisms can provide an alternative for those who cannot achieve legal representation in the formal court system and are seeking recourse from a system for resolving a legal problem. But, in family disputes, these tribal mechanisms routinely favour men, and always try to persuade GBV survivors to return to their husbands. They also routinely favour those from stronger tribes.

## 7.4 LACK OF RESOURCES IN THE STATE'S LEGAL SYSTEM AND PROBLEMS OF CORRUPTION

The lack of sufficient resources allocated to the State legal system is a problem in many settings and can result in serious delays in dealing with clients' cases. For example, in Cameroon there is a problem of lack of materials at State offices – from lack of staff, to lack of paper and pens. In Yemen there are insufficient judges and judicial staff. 53 judges and judicial staff are reported to have died from COVID-19. The fuel crisis can result in authorities not being able to transfer detainees to court. Judges and judicial staff have received no salaries for 1.5 years, and as a result often they cannot even pay for transport to work, and the situation leads to frequent strikes by judicial staff. A challenge frequently arising in many countries where INTERSOS works is the problem of officials asking for money for providing free services within the legal system, or asking for a higher amount of money than the standard price for the service. Raising issues of corruption can pose another potential security threat to lawyers.

## 7.5 FUNDING

Whilst some donors like to fund legal services because – for documentation work at least – the outcomes tend to be more tangible than for some other protection work – there can be difficulties in persuading some donors that legal services are a humanitarian priority. Legal fees are often very expensive. Donors may be willing to fund legal services, but there is a cap on what they will pay for legal fees, and often beneficiaries cannot afford to pay them, so cases can get stuck.

Short-term humanitarian funding cycles are a real problem for legal aid services; it requires significant time to establish quality legal aid projects in complex settings. The duration of projects is linked to short-term humanitarian contracts which are often shorter than the legal cases being supported. For example, in Iraq, appointments for obtaining unified ID cards are being issued in December 2020 for mid-2021, hampering the ability of legal staff to complete procedures within the funding period. Further, some donors, like UNHCR, are focused on particular beneficiary groups, leaving gaps and unfulfilled needs in some areas.



## **8. MITIGATING AND ADDRESSING THE CHALLENGES AND CONSTRAINTS**

### **8.1 COMMUNITY ENGAGEMENT AND EMPHASISING ADHERENCE TO HUMANITARIAN PRINCIPLES**

To provide legal services effectively in humanitarian settings, building up a strong relationship between the humanitarian agency and the community in which legal services are being offered is essential. INTERSOS legal teams put a lot of emphasis on holding regular meetings with community leaders/elders and stressing their independence, impartiality and neutrality, and lack of affiliation with government or with any group. In Afghanistan when INTERSOS legal staff go into communities to offer their legal services and engage with individuals needing legal assistance, they are very aware of the need to ensure that they do not do anything that might create distrust from the community. For example, even if it might be more convenient and efficient to collect individuals' information for legal assistance using the forms that are used by most INTERSOS offices, they often use blank notebooks instead of forms, to avoid the risk that their actions might be misinterpreted, since even having a form with you in this context can create distrust and give the mistaken impression that you may be collecting information for US military operations. In Iraq in the IDP camps, INTERSOS meets regularly with the mukhtars (community leaders) and discusses the plans for legal services for the week; the mukhtars then disseminate this information to their sectors of the camp. In other States, where INTERSOS is aiming to offer its legal services in areas that are in the control of Non-State Actors (NSAs), INTERSOS always communicates with the NSAs in charge before visiting new areas.

### **8.2 EMPLOYING NATIONAL LEGAL STAFF, INCLUDING STAFF FROM THE LOCAL COMMUNITY**

INTERSOS' policy of employing national legal staff, often local to the area in which they are offering services, has proved to be very helpful in addressing many of the challenges that can arise when offering legal aid in humanitarian settings. INTERSOS also uses the community relationships they have built to try to address challenges such as corruption in the legal system. For example, in some States, when officials have asked for money for providing services that are supposed to be free, INTERSOS has sent its legal counsellors to talk to the authorities, and would also use community elders to follow up on people's cases with the district officials. In some States, INTERSOS lawyers – most of whom are from the same community as the beneficiaries – take these issues up with the police and are often successful in resolving them, because of the personal relationships that they have.

INTERSOS' employment of lawyers local to the beneficiary communities can also be useful when access to enter a particular area has not been granted by the authorities, since their geographical proximity can avoid the need to cross checkpoints.

## 8.3 BUILDING RELATIONSHIPS WITH THE AUTHORITIES

Building up a relationship between the humanitarian agency and the authorities in charge of the area where legal services are being offered is also vital. This is essential for access, and for addressing problems that arise. For example, taking on legal representation in sensitive cases like GBV cases, a functional relationship with the police and local authorities is important, in order to protect staff and beneficiaries. INTERSOS often engages in workshops with national and local authorities and with judicial staff in order to build relationships and to address issues arising in their day-to-day legal services work from their different perspectives, as well as providing the opportunity for INTERSOS to offer input on international legal standards. Engagement of this type with the authorities can also result in increased protection from the authorities in the face of security threats.

Developing relationships with the authorities can result in the development of solutions to systemic problems, such as the difficulties of providing civil documentation to large groups of people living in camps, some of whom are required to go through security checks as part of the process. See box below for the example of Civil Affairs Directorate (CAD) missions in the IDP camps in Iraq, which were achieved as a result of reaching agreements with the authorities.

### Case study: Building relationships with the authorities - Iraq

#### **“Coordination of Legal Civil Affairs Directorate (CAD)/Court Missions to Refugee and IDP Camps to process legal documentation cases”**

Previously, after their paperwork was completed by an INTERSOS lawyer, beneficiaries of legal assistance would typically need to travel to the CAD office/court in order to sign and complete the procedure to obtain their documents. This need to be present in the CAD office/court often prevented the most vulnerable from receiving their civil documentation, as they may not have the ability to travel to the required office - due to movement restrictions, risk of arrest if they travel without documents, lack of transport funds, etc.

In order to mitigate this problem INTERSOS Iraq began coordinating with CAD offices/courts in order to organize missions where the government staff come to the camps and complete the process within the camp, without the beneficiary having to exit the camp and go to the office.

#### **Kurdistan Region of Iraq (KRI)**

In May 2020, due to the increased number of refugees requiring marriage and birth certificates and families' inability to cover the transportation fees to the court, INTERSOS legal team coordinated with the court of Khabat to conduct missions to both Darashakran and Kawargosk Refugee Camps. As a result, Khabat court agreed to have the missions conducted to both camps after INTERSOS prepares all the required documents for the vulnerable refugees for a maximum number of 10 to 15 birth and marriage documents/minimum of 5 documents per mission.

#### **Federal Iraq**

Beginning in November 2019, INTERSOS coordinated with the CAD of Ninewa to organize mobile missions in Ninewa IDP Camps to issue civil documentation for all camp residents who do not have civil documents and meet INTERSOS legal services criteria. The missions specifically aim to issue and renew Iraqi Civil ID cards and Iraqi Nationality Certificates to vulnerable IDPs without them having to leave the camp and attend CAD offices, as per the normal procedure. The missions consist of CAD Officers coming to the camps to facilitate the process of issuance and renewal there. The INTERSOS team is supporting

beneficiaries to prepare all the required documentation and to go through the procedures along with the CAD officers, ensuring the availability of suitable space for the missions, and facilitating the process before, during and after the mission. Due to its success in Ninewa, INTERSOS is coordinating with the CAD office in Salah Al-Din province to organize the same type of mission to Karama IDP camp.

It became evident that, despite the CAD/court missions to the IDP camps, difficulties in obtaining their documents persisted for families who were perceived to have family members affiliated with armed groups, as security checks are required by the authorities in their cases. Therefore the Ninewa Legal Task Force advocated and reached agreement with the authorities for the CAD/court missions to the IDP camps to include Intelligence Directorate staff, which enabled security checks to be carried out and documentation issued for those passing the security checks.

Through engagement with local authorities and increasing their understanding of the role that legal services can provide, it is sometimes possible to persuade them of the mutual benefit of the work to the authorities as well as to the beneficiaries. For example, in one State where INTERSOS is working, INTERSOS experienced some resistance from local authorities to their work on obtaining civil identity documents for refugees, as they were reluctant for assistance to go to refugees rather than the host community. Most of INTERSOS' legal staff team members were from the affected areas, and they advocated directly with mayors and the governorates, as well as with army and intelligence officers. Through this engagement they were able to persuade the local authorities of the mutual benefit of their legal services to the community, i.e. that by helping the refugees obtain civil documentation brought more order to the situation, and that these documents can enable refugees to move back to their country of origin eventually. This persuaded some local authorities to permit this legal services work to take place.

Sometimes it may be possible to negotiate arrangements with the authorities to overcome dangers to staff. For example, where there have been threats to the safety of INTERSOS staff to operate in a geographical area by non-State armed groups but beneficiaries in that area are still calling for their legal assistance in obtaining civil documentation, INTERSOS has found that it may be possible to reach agreements with the authorities to find ways of working remotely to prepare people's cases and for the authorities to finalise the face-to-face interaction required for delivery of people's documents to them.

## **8.4 ENGAGEMENT WITH UN HUMANITARIAN COORDINATION MECHANISMS**

INTEROSOS' relationship with UNHCR and with the UN cluster system is important in mitigating risks, and in seeking support to address problems that arise relating to access and to security. See section 9 on coordination.

## **8.5 TIME**

It is important not to under-estimate the time needed to reach the point of achieving results from a legal aid programme in a humanitarian setting. Understanding the context, developing the strategy for how to implement the legal services programme in a complex setting, finding ways around the obstacles to providing the service, and building the necessary relationships and community trust are very time-consuming activities. Advocacy with donors is needed in order to ensure that there is a shared understanding of the time required to lay the groundwork properly for an effective legal services programme in a humanitarian setting and for it to harvest results.

## 8.6 TESTING THE WATERS

INTERSOS has found that in communities that have potential concerns about legal services work, it is important to start slowly and test the waters with less controversial topics. Depending on the outcome of this initial work, there may be potential to build towards more culturally-sensitive protection-focused topics. INTERSOS has found that working with other sectors also enables the build-up towards working on more sensitive issues. For example, working in areas in Afghanistan where men can react strongly against the concept of obtaining legal documents for a woman, INTERSOS builds up from hygiene awareness sessions, to protection awareness sessions, to legal awareness sessions. They found that it paid off to take a very cautious approach in the field visits, to mitigate the risks and to build up slowly towards the legal aid work that would benefit women in the community. In Iraq, INTERSOS explored potential expansion into HLP services through a small assessment and pilot program offering HLP counselling in one area, to later assess feasibility to expand elsewhere.

## 8.7 RISK ASSESSMENTS AND RISK MANAGEMENT PLAN

In INTERSOS legal teams, the lawyer completes a risk analysis form with the beneficiary, and shares this with the legal officer, who decides whether it will be in the interests of the beneficiary to proceed with the legal action proposed, thus setting up a safeguard that mitigates the chances of risking the beneficiary's safety, and ensuring that the potential risks of taking the action have been fully considered. During this process the beneficiary is made fully aware of the potential risks of going ahead with their case. In Iraq, the SOPs state that INTERSOS legal teams can assist a beneficiary to obtain a divorce, but only if the case management team is involved to explore all options and potential consequences.

Having finalised the risk assessment and decided to pursue the case, the INTERSOS legal team then works with the beneficiary to devise a risk management plan. INTERSOS complies with the humanitarian principle of seeking to do no harm. Therefore, for example, in GBV cases they only intervene once the GBV survivor is in a safe shelter (which another INTERSOS team may have procured for her). The legal team cannot visit her if she is still living with the perpetrator, as this could put her at further risk.



## 9. COORDINATION WITH OTHER AGENCIES AND COLLECTIVE ADVOCACY

INTER SOS' legal aid teams support and engage in the humanitarian coordination system. INTER SOS sometimes takes on co-lead roles for Protection Working Groups and always participates in these coordination mechanisms if they are in place in the areas where they are working. INTER SOS shares information with them regularly, and benefits from the joint analysis undertaken by these mechanisms for understanding the complexities of the settings in which they are working.

High-level advocacy is often needed to seek reforms to laws and policies affecting beneficiaries, and to improve access to beneficiaries for legal services providers. This may require Humanitarian Country Team (HCT)/Humanitarian Coordinator (HC) intervention, often via the Protection Cluster. In refugee cases, it may require UNHCR to intervene with advocacy with the authorities, or for them to seek HC/HCT intervention.

INTER SOS recognises the importance of the power of collective advocacy to address some of the problems that advocacy by individual agencies is less likely to impact. In Iraq at provincial level there is a Critical Protection Issues report system – an alert system sent every two weeks to the Protection Cluster if issues arise, e.g. if there is a major increase in arrests, in order to alert the HCT. INTER SOS feeds information into the Iraq Protection Cluster and to UNHCR, so that it can be used for advocacy at national level with the government. Legal Task Forces at governorate level in Iraq have proved very useful in collective advocacy, e.g. in Ninewa they advocated that the CAD missions to the IDP camps would include Intelligence Directorate staff, which enabled security checks to be carried out and documentation quickly issued for IDPs.

These coordination mechanisms also enable service-mapping, avoid duplication, and permit a better coordination of referrals between different organisations providing legal services. INTER SOS legal staff in Cameroon have found that Protection Cluster coordination enables agencies to be aware of the specificities of other agencies' services and therefore aids referrals, particularly if beneficiaries move to a new geographical area.

Legal Working Groups often address key technical issues that create daily obstacles to their members' work. For example, in Iraq, the Salah Al Din Legal Working Group has recently achieved the following through its collective work: standardisation of a list of legal fees charged by courts; a service-mapping of legal services; radio legal awareness sessions; and contacts with government offices to determine when they are each open and closed and distribution of this information.

Another important function of coordination bodies is working towards common standards. This has tended to happen less in Legal Working Groups than some others. It could be useful for the Protection Cluster/Legal Working Groups to agree on standardising the legal services, modalities, and processes offered by the humanitarian legal actors. This could also be helpful for national and local legal aid organisations, as more national and local organisations taking over this work. In Ninewa, Iraq there has been a concerted effort made to open up the Legal Task Force to more local legal groups. To facilitate the greater participation of local legal groups and lawyers, they have decided to hold some of their meetings in Arabic only.

INTER SOS finds that the Protection Cluster and other coordinating bodies tend to work as well as the leadership works, and gaps in capacity cause considerable problems for effective leadership. For example, in many places there is a lack of national Protection Cluster capacity and they do not always have the necessary human resources. Often positions are unfilled, and UNHCR staff work for the Protection Cluster in a double-hatted capacity (covering both their work for the Protection Cluster and their work for UNHCR). By contrast, in Iraq UNHCR has staff dedicated to the Protection Cluster, and most of the



clusters require co-leads to be 100% seconded for the national clusters. This is positive for the effectiveness of the Protection Cluster, although it can be problematic for NGOs to secure the funding for this.

The Global Protection Cluster has noted that it is problematic that legal aid is seen as the job of lawyers and of one cluster, when the reality is that legal aid impacts on all services. Compared to other clusters, the members of the Protection Cluster tend to have smaller programmes which can mean less incentives and powers of persuasion when advocating with national and local authorities. There would be an advantage in clusters like food security and education seeing legal issues as central to their role and bringing the incentives and powers of persuasion of their much larger programmes to the table when advocating with national and local authorities.

While INTERSOS works with other agencies on collective advocacy and participates in joint coordination mechanisms whenever possible, INTERSOS often works in geographical areas where they are the only – or one of the only – protection actors operating. Also, while there are often subclusters/working groups on specific thematic areas such as GBV, CP, mine action, and HLP, in many geographical areas there are no legal working groups in place. Legal assistance is often not seen as a priority within the Protection Cluster. INTERSOS has seen the benefit of working with these where they do exist, and would urge the establishment of specific legal working groups when the situation warrants, e.g. there is no Legal Task Force of the Protection Cluster in Afghanistan, and no Legal Working Group of the sub-national Protection Cluster in Kandahar, and INTERSOS legal staff there think that these could be useful - to discuss legal services challenges, identify gaps, and plan advocacy with government to address issues. The HLP Task Force in Afghanistan has demonstrated the value of having a structure of this kind, through which advocacy efforts can be channelled to the HCT on to the government. This HLP Task Force has had important achievements, e.g. successful advocacy to persuade the government to revise a Presidential Decree on the land scheme, for allocation of land to people displaced by flooding, and provincial-level advocacy on evictions.

In refugee response situations, where there is no cluster system, INTERSOS tends to be an Implementing Partner of UNHCR, and engages in coordination with them and with other legal service providers. For example, in Jordan, INTERSOS participates in Legal Working Group meetings with other NGOs, which are organised by UNHCR's Protection Unit. These meetings are for coordination, and for sharing updates and concerns relating to the implementation of laws affecting refugees and the current situation of refugees in the country, as well as technical tools, e.g. databases and SOPs about documenting protection concerns. This helps UNHCR to advocate with the government. In Lebanon, INTERSOS participates in monthly Legal Working Group meetings with UNHCR and other NGOs to discuss challenges and engage in joint advocacy. For example, in North Lebanon they were successful in getting agreement that even if Syrian refugees delay more than a year in registering a child, they can register them without the need to file a lawsuit. INTERSOS legal staff have also found the regional legal core groups organised by UNHCR in Lebanon helpful, as it enables them to get to know other organisations' focal points, to coordinate with them, and to make referrals, e.g. if a beneficiary moves to another area. In Yemen, INTERSOS coordinates with UNHCR and other implementing partners to avoid duplication, and facilitate referrals, and division of areas of intervention at district level. INTERSOS legal teams attend regular case management meetings organised together with UNHCR protection units, where relevant to discuss the legal outcomes and challenges about specific GBV and CP cases.

Human rights organisations can sometimes take on issues that humanitarians cannot, e.g. reporting on and pushing for prosecution of perpetrators of widespread and systematic violations of human rights and of international humanitarian law (IHL). In some settings humanitarian legal services organisations lack coordination with human rights actors, and should ensure more coordination with the Office of the High Commissioner for Human Rights (OHCHR) and with human rights NGOs. Information-sharing protocols about human rights could be helpful from the Protection Cluster. However, the issue is also one of resources; since INTERSOS and most other humanitarian agencies providing legal aid services lack sufficient qualified human resources to conduct good information-management for analysing trends, in order to produce information that would be fit for purpose.

## 10. SUSTAINABILITY - SUPPORTING THE BUILDING OF NATIONAL AND LOCAL LEGAL SYSTEMS AND LEGAL AID SERVICES

### 10.1 EMPLOYING - AND BUILDING THE CAPACITY OF - NATIONAL/LOCAL LEGAL TALENT TO ENGAGE IN HUMANITARIAN WORK

INTERMEDIOS employs or contracts only national/local lawyers in its missions, which ensures a sound understanding of national laws, of how formal and informal legal systems function and interact, and of local and national dynamics that may affect legal services. It also engages national/local lawyers in humanitarian issues in which they might not otherwise have gained experience, and trains them in humanitarian principles, leaving a potentially important legacy in building up local/national legal aid services. Many lawyers employed in private practice would never receive cases relating to humanitarian and refugee issues, as most beneficiaries would be unable to afford the necessary fees; through their work with INTERMEDIOS, the lawyers employed or contracted get to see humanitarian issues as legal issues. With the experience that they have gained in humanitarian and human rights issues with INTERMEDIOS, it is likely that many of these lawyers will carry on this work into the future, potentially setting up their own national or local legal organisations working on humanitarian issues.

In Iraq, INTERMEDIOS employs more than 50 legal staff. All of them are Iraqis, some are newly-qualified, and this period of interacting with humanitarian issues has an important impact on their professional development. In North Lebanon, INTERMEDIOS is the only organisation that has an MoU with the Tripoli Bar Association. This arrangement has been helpful in facilitating INTERMEDIOS' legal aid work, and INTERMEDIOS provides trainings for the lawyers of the Tripoli Bar Association on protection and on international law. In Yemen, INTERMEDIOS contracts 40 Lawyers, all Yemenis. UNHCR has an agreement with Sana'a University for INTERMEDIOS to train 10 law graduates per year for 5 months on international refugee law, providing them with theoretical and practical training. They learn skills such as interviewing clients, how to submit a lawsuit to court etc. This programme is funded by UNHCR. Sadly, at the end of 2020 it had to be suspended, due to lack of funds, and to COVID-19.

### 10.2 CAPACITY-BUILDING OF NATIONAL AND LOCAL NGOS AND CBOS AND COMMUNITY LEADERSHIP ON LEGAL AID WORK

Training national and local NGOs and Community Based Organisations (CBOs) has not been a main focus of INTERMEDIOS' legal services work in many operations, although it does engage in this in some settings, e.g in Jordan, INTERMEDIOS trains CBOs' staff and volunteers on legal services and other sectors. They used to provide trainings for CBOs on refugee law, but stopped due to lack of funding.

INTERMEDIOS recognises the importance of building the capacity of national and local NGOs and CBOs on legal aid work, and some of its operations have ambitions to engage in this work if funding is made available. However, there are limits to the potential for capacity-building in settings that are still in conflict. As a humanitarian agency which values highly its strong adherence to the humanitarian principles, INTERMEDIOS is aware that there are settings where they work in which some national and local NGOs and CBOs cannot currently comply with the requirement to be neutral and impartial and could be accused of having affiliations to one faction or another or to political parties, which can be particularly problematic in the sensitive area of legal aid provision. For example, in Iraq, there are difficulties in engaging in capacity-building for local stakeholders. There are a lot of local dynamics at play, and if INTERMEDIOS is seen assisting one group, it could be perceived badly by another group and be seen as supporting one tribe or religious/ethnic group over another. However, there are areas where this work may be possible.



There is also potential for INTERSOS and other humanitarian agencies to increase training of Bar Councils in some settings, and also training of community leadership on legal issues. In Yemen INTERSOS works with local community leaders who often provide mediation, to train them on legal issues and on addressing discrimination. In Cameroon, there are paralegals in areas of the country where there are no lawyers, and there is potential to train them, including on the humanitarian principles. In Cameroon, INTERSOS undertakes sensitisation campaigns with communities, and has set up community committees in IDP sites about civil documentation, and trained the community focal points. In Lebanon INTERSOS runs workshops with mukhtars. This improves relationships, and aids in tackling problems affecting INTERSOS' legal services work.

### 10.3 CAPACITY-BUILDING OF NATIONAL AND LOCAL AUTHORITIES ON LEGAL SERVICES

Capacity-building of national and local authorities is an important area of INTERSOS' legal services work. In Cameroon, INTERSOS provides trainings to the Ministry of Social Affairs and the Ministry of Women and Family, on human rights in general, on international humanitarian law, international refugee law, CP, GBV, and on local laws, to show the links with international law. In Lebanon, INTERSOS has conducted workshops for local authorities on legal residency and on documentation. They ran a very successful workshop with the Sharia court, to discuss legal challenges they face and share opinions. INTERSOS' lawyers run workshops with judges and with the Internal Security Forces (ISF), amongst others. They also provide input into the running of workshops led by UNHCR, e.g. with the General Security Forces. In South Yemen, INTERSOS trains Ministry of Interior staff and prosecutors, amongst others, on refugee law, GBV, and protection. INTERSOS currently trains judges, but noted that there is also a need to increase training to police and security departments, and to judicial officials of lower rank than the judges. INTERSOS also runs training for authorities on discrimination, e.g. for the Executive Unit responsible for IDPs in South Yemen.

### 10.4 HUMANITARIAN-DEVELOPMENT-PEACE-BUILDING NEXUS AND LEGAL SERVICES

Legal services can fall at the nexus between humanitarian, development and peace-building work. Although INTERSOS' mandate is purely humanitarian, as noted in the previous sections its legal aid work often engages it in building longer-term capacity, and in many settings the legal aid work is not only responding to a crisis, but also contributing to durable solutions for beneficiaries. For example, in Iraq INTERSOS' role is crucial as people start to return to their areas of origin. Reintegration into their communities of origin requires legal aid services. Durable solutions – returns, resettlement, or local integration – are all more problematic when people do not have access to civil documentation and access to justice.

There could be benefits to humanitarian agencies that are providing legal aid services working more with development actors in some settings, to try to fill some of the gaps in legal aid provision. In some areas it may be premature for development actors' involvement, but possibilities may exist, e.g. with UNDP's access to justice programme for strengthening the judicial system and structures, and UNICEF's legal assistance work. In Afghanistan, development partners are proposing to start a coordination forum on legal identity issues, following a request from the global UN Legal Identity Task Force.<sup>4</sup>

<sup>4</sup> See UN Legal Identity Agenda: <https://unstats.un.org/legal-identity-agenda/https://corehumanitarianstandard.org/files/files/Core%20Humanitarian%20Standard%20-%20English.pdf>

A positive example of coordination between humanitarian and development actors is UN Habitat's co-leadership of the HLP taskforce in Afghanistan. As a development actor, UN Habitat's strong relationship with the government has reportedly been helpful in facilitating the work of the HLP taskforce.

When designing a legal aid project, humanitarian actors should include indicators on its contribution towards building national and/or local legal aid systems, in the same way as they do with other sectors, e.g. for a health project. Humanitarian donors are often reluctant to fund capacity-building activities. Humanitarian agencies traditionally tend to focus their fundraising on humanitarian donors, but in the area of legal aid work there may be advantages to also applying to development donors. As documented in this report, as well as supporting individual legal cases, humanitarian legal aid actors like INTERSOS tend to advocate for legal reforms and policy shifts and to engage in some forms of capacity-building in order to improve the situation for their beneficiaries in a more systematic way. Peace and development funds might be available for this work.

## METHODOLOGY

This research and the resulting report were undertaken in November 2020 by an independent consultant contracted by INTERSOS – Melanie Teff. She undertook a desk review of INTERSOS' legal aid materials, and 30 key informant interviews – with INTERSOS legal and protection staff working in Afghanistan, Cameroon, Iraq, Jordan, Lebanon, and Yemen, as well as with Protection Cluster, Protection Working Group, and Legal Working Group/Taskforce members, and with staff of the Norwegian Refugee Council, UNHCR, and the Global Protection Cluster. The report was reviewed by INTERSOS Heads of Mission in the countries covered, and by INTERSOS Geneva Representative and Policy Advisor, and INTERSOS Protection Unit.

The report includes many illustrative examples of key issues and challenges. These examples are based on actual issues and events, but anonymised to consider confidentiality and sensitivities.



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