Concept Note - Taking a Principled Approach: Framework for Defining Humanitarian Engagement When Humanitarian and Protection Concerns Are Present

There has been increasing need to define – in clear and uniform terms – the potential levels of humanitarian engagement that might apply when a full, inter-cluster response is not possible due to humanitarian and protection concerns, ones that pose risks to core humanitarian principles, including neutrality, impartiality and Do No Harm (including prolonging the detention of IDPs in unsafe or inhumane conditions), and due to other practical considerations (e.g. the likelihood that beneficiaries will soon move, leaving behind certain provisions).

The purpose of this document is three-fold:

1. To outline the overall objectives of this initiative
2. To explain the process of establishing a common framework (done once prior to its application); and,
3. To outline the process of applying this framework (done on a recurring, case-by-case basis).

These topics are addressed in turn below.

1. Objectives

The creation of a common, inter-cluster framework should help provide or otherwise ensure:

A. Increased basis for concrete discussions, e.g. within the ICCG, about the appropriate level (types) of response on a case-by-case basis
B. Greater clarity in terms of recommendations from the clusters to partners about the types of interventions that ought (and ought not) to be provided;
C. Increased uniformity across partners' and clusters' responses (such that principles are maintained and not selectively invoked); and,
D. Strengthened advocacy with authorities, namely on the basis that the limits on engagement and the underlying concerns can be made clear.

The overarching objective, inherent of the above, is strengthening practical means of ensuring a principle humanitarian response, one that takes into consideration case-specific circumstances, including the humanitarian imperative.

2. Establishment of a Common Framework

At present, it is envisioned that the common framework will facilitate the above by outlining, per cluster, the types of assistance that ought (and, indirectly, ought not) to be provided when humanitarian and protection concerns are at issue. Currently, the framework consists of a four-tiered, color coded system and an overview of potential locations of concern. As noted, the development of the framework is a **preliminary step**, one that will facilitate future case-by-case discussions. Ideally, development of an inter-cluster framework consists of **(a)** clusters and other stakeholders agreeing on the framework's components (e.g. the number and type of color coded categories), and, with the framework (as such) having been agreed-up and defined, **(b)** clusters, as technical leads, working with their partners to specify the specific interventions that apply within the context of any one category

3. Application of the Framework

With the framework, including the predetermined packages of assistance, in place, it would be possible to come to an agreement within the ICCG about the level of response that is most appropriate on a case-by-case basis. The Protection Cluster could help facilitate the conversation by providing a rapid protection assessment (RPA) that, based upon the situation, including the humanitarian needs, puts forward a recommendation (e.g. that a limited "life and dignity saving" response be provided). If consensus can be reached, the ICCG can communicate a recommendation to clusters and others (e.g. via the HCT), which partners could immediately put into practice (as, e.g., the interventions that relate to "life and dignity saving" have already been clearly identified). Development and application of the framework can be summarized as follows:

Preparation (done once)		Case Specific Application (done on an ongoing, case-by-case basis)		
STEP 1	**STEP 2** [Ideal but not necessary]	**STEP 1**	**STEP 2**	**STEP 3**
ICCG/HCT	**Individual agencies**	**Protection**	**ICCG**	**Partners and other stakeholders**
(a) Agrees on the structure of the common framework; (b) Clusters, in collaboration with partners, populate the framework with specific interventions	(c) Endorse the common framework (making any changes seen as strictly necessary) Ideally individual agencies adopt the framework but doing is not necessary for the ICCG to make recommendations on a case-by-case basis.	(a) Conducts an assessment (e.g. an RPA) in the location of concern (b) Provides the ICCG with the report, including a recommendation as to the appropriate level of assistance (e.g. "life and dignity saving").	(c) Discusses the situation, including the level of assistance that is most appropriate given, on balance, humanitarian needs and concerns (d) Reaches agreement on the level of assistance and communicates this decision to partners and other stakeholders	(e) Partners stage interventions in accordance with the agree-upon framework (with support of the technical support of clusters) (f) Ideally, HCT considers the recommendation for further endorsement or revision

Framework Template

This guidance document is intended to serve several **purposes**. In particular, it is intended to provide increased basis for concrete discussions and decisions within inter-agency fora about the appropriate level of humanitarian response when core humanitarian and protection concerns are present. Further, it is meant to provide increased clarity to partners with respect to the implementation of recommendations in this regard, including the specific types of interventions to be provided on a case-by-case basis. Lastly, it is important to highlight that the framework aims to increase consensus and uniformity within the humanitarian response and to strengthen the humanitarian community's ability to address critical humanitarian and protection concerns through concerted advocacy. The decision-making process will be guided in part by the humanitarian imperative, as well as by practical concerns such as the extent to which aid has been provided in the past.

Category	With respect to **the process by which the framework is applied**, it is important to note that the criteria below are examples of ones that will be used to determine the appropriate level assistance to provide within the context of any one location (or segment thereof). That decision – i.e. as to which of the following levels apply – will be made within the ICCG and HCT based on the case-by-case application of these criteria and others. Ideally discussions about the appropriate level of assistance will be based upon a protection or inter-cluster assessment, one that not only provides an evidence base but also ensures a common understanding among participants in these discussions. **Balanced against the criteria below are important considerations of: (1) humanitarian need, i.e. the extent to which the humanitarian imperative calls for intervention; (2) the risk of non-intervention; (3) the (un)likelihood of influencing policy and practices; as well as, (4) other ethical and practical considerations.** Decisions with respect to the provision of aid at certain sites can, and should, be reviewed on a period basis as underlying circumstances change.
Red **No assistance** should be provided. *Relates only to the most extreme circumstances under which no aid can be provided due to the underlying concerns, which should be objective, clearly stated in writing, and made widely known if this category is evoked for denying the provision of aid.*	Conditions under which this category should apply the following: 1. **Safety**: Intervention poses an imminent and severe danger to the physical safety of staff (e.g. intervention under live-fire scenarios); 2. **Detention**: Intervention would likely prolong the detention of persons in the clear absence of due process rights (a time-bound exception can be made for new arrivals only); 3. **Do No Harm**: Aid provision will cause more harm, on the whole, than relief for populations of concern (the reason for which must be clearly stated should this item be evoked).
Orange Only **life-saving assistance** should be provided. *Relates to situations that entail extremely serious humanitarian and protection concerns.*	Conditions under which this should apply include the following: 1. **Safety:** Intervention would pose a high risk to the physical safety of staff and/or populations of concern (e.g. risk of IED contamination; likelihood of asymmetric attack) 2. **Protection access**: Protection actors possess highly restricted access to persons of concern (e.g. to assess the protection concerns related, *inter alia*, to full provision of aid); 3. **Risk of misuse**: There is a high risk of humanitarian assistance being misused or diverted for non-humanitarian purposes; 4. **De facto detention**: Scenarios of de facto detention – including not only designated detention facilities but also facilities in which movement is highly or completely restricted (e.g. camps); 5. **Principles and Do No Harm**: Stakeholders agree that a more comprehensive response would compromise core humanitarian principles and/or cause harm. 6. **Agency of Last Resort**: Government duty bearers are confirmed as unable to provide lifesaving assistance, and humanitarian support is required as a last resort to sustain life
Yellow Only **limited first line responses** should be provided. *Relates to situations that entail serious protection concerns. This category has been included on the basis that some middle-ground, between a life-saving and a full response, is likely necessary in many contexts.*	Conditions under which this category should apply include the following: 1. **Safety**: Intervention poses clear dangers to the physical safety of staff (e.g. risk of IED contamination; likelihood of asymmetric attack) 2. **Protection access**: Protection actors possess restricted access to persons of concern (e.g. to assess protection concerns related, *inter alia*, to full provision of aid); 3. **Freedom of movement**: Scenarios entailing serious restrictions of movement without adequate justification – including lack of clear and widely known procedures for leaving camp facilities; 4. **Principles and Do No Harm**: Stakeholders agree that a more comprehensive response would compromise core humanitarian principles and/or cause harm;
Green Relevant **full cluster responses** (first line, second line or full response) may be given as appropriate to the type of location *Relates to situations that might entail protection concerns but stakeholders agree that the nature and scope of those concerns do not warrant the provision of a limited humanitarian response.*	Conditions under which this category should apply include the following: 1. **Protection access**: Protection actors have sufficient access to conduct a thorough assessment as to, *inter alia*, the risks of providing aid; 2. **Principles and Do No Harm**: Stakeholders agree that the humanitarian imperative outweighs potential concerns regarding core humanitarian principles;

CLUSTER 1 (EXAMPLE FOR TEMPLATE)

Types of facilities **Note**: concerns regarding the location of each facility, e.g. a checkpoint's proximity to the front line, can be reflected in the colour category	**GREEN - FULL RESPONSE**	**YELLOW – LIMITED FIRST LINE**	**ORANGE - LIFE-SAVING**	**RED - NO RESPONSE**
Checkpoints				✕
Screening and related facilities				✕
Transit sites (where IDPs may be waiting for up to 2 weeks)				✕
Other Non-Camp Settings				✕
Camps				✕

CLUSTER 2 (EXAMPLE FOR TEMPLATE)

Types of facilities **Note**: concerns regarding the location of each facility, e.g. a checkpoint's proximity to the front line, can be reflected in the colour category	**GREEN - FULL RESPONSE**	**YELLOW – LIMITED FIRST LINE**	**ORANGE - LIFE-SAVING**	**RED - NO RESPONSE**
Checkpoints				✕
Screening and related facilities				✕
Transit sites (where IDPs may be waiting for up to 2 weeks)				✕
Other non-camp locations				✕
Camps				✕