



## TERMS OF REFERENCE

### PROTECTION CLUSTER FOR IRAQ

#### A. Context Background

1. Based on a recommendation of the Humanitarian Country Team (HCT) in Iraq, the Emergency Relief Coordinator (ERC) activated the Cluster system in February 2014. The steady roll out of the Cluster mechanism was done to address the needs of Internally Displaced Persons (IDPs) resulting from escalating armed violence in Anbar Province between December 2013 to early 2014 and later expanded in 2015 to cover all IDPs in Iraq regardless of their place of origin and place of displacement and encompass the scope of humanitarian efforts across Iraq for the benefit of all those affected by the humanitarian crisis, including host communities, IDPs, Syrian refugees and other vulnerable group.
2. In order to ensure simplified and streamlined leadership and coordination arrangements in complex situations, the Iraq Protection Cluster shall work as required or requested in coordination with mandated leading agency(-ies), with all persons, including host communities and foreign nationals, especially, in areas where host communities, IDPs, refugees and other vulnerable groups were affected as a result of the crisis.<sup>1</sup>
3. As noted more detail below, the Protection Cluster consists of four Sub-Clusters, as well as sub-national and governorate-level bodies (herein at times collectively referred to as the Protection Cluster's "constituent bodies").

#### B. Protection Cluster geographic scope, goal and specific objectives

4. The Protection Cluster for Iraq covers the whole of Iraq, namely all governorates in the centre and south of the country and the Kurdistan Region of Iraq (KR-I).
5. While recognizing that states have the primary responsibility to protect all individuals within their jurisdiction in accordance with international and national legal provisions, the Protection Cluster for Iraq aims to enable the provision of a coherent, coordinated, transparent, accountable and

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<sup>1</sup> See also Joint UNHCR-OCHA Note on Mixed Situations - Coordination in Practice, April 2014.

comprehensive response to protection needs, including those of conflict-affected communities in Iraq.

6. Within the Iraq context, the Protection Cluster's work relates foremost to the protection of internally displaced persons. While this is true, and while primary accountability for the protection of refugee populations rests with UNHCR, the Cluster will embrace a common-sense, rights-based approach that does not arbitrarily discriminate on the basis of status. To the extent beneficial to persons of concern, the Cluster will coordinate with UNHCR and other key actors.
7. In line with the IASC guidelines and relevant tools, including the operating Iraq Humanitarian Response Plan and the Regional Refugee and Resilience Plan, the objectives of the Protection Cluster for Iraq are:
  - a) to support the identification and prioritization of protection concerns;
  - b) to undertake and coordinate advocacy efforts, mainly but not limited to, with the HC/HCT and other key stakeholders in order to support preventive, remedial and reparatory actions by the relevant authorities and international stakeholders in accordance with their obligations;
  - c) to ensure that regular protection assessments are carried out with a special focus on vulnerable populations and groups with special needs;
  - d) to support effective coordination of protection activities responding to the identified key concerns and strive to reduce duplication, minimize gaps, and promote complementarity in the humanitarian response;
  - e) to develop appropriate protection sensitive response strategies and work-plans clearly identifying roles and responsibilities and report on their implementation;
  - f) to support resource mobilization initiatives for the Cluster, the Sub-Clusters, Working Groups and their Members;
  - g) to undertake capacity building and sensitization of stakeholders, also, through protection mainstreaming; and
  - h) to initiate or enhance protection of civilians within the context of humanitarian action.
4. The Protection Cluster is comprised of protection and human rights focused organizations and entities that undertake preventive and responsive activities in different locations in Iraq within the following definitional framework:
  - a) The concept that protection encompasses all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. human rights law, international humanitarian law, refugee law) without discrimination and as provided for in national and international law. Consequently, protection is not limited to

survival and physical security but covers the full range of rights, including civil and political rights.

- b) The work of the Protection Cluster Members is guided by the principles of neutrality, impartiality, independence, and the humanitarian principle of “Do no harm’.

### **C. Function of the Protection Cluster for Iraq**

- 8. The Protection Cluster for Iraq will voice the concerns, share information, and seek solutions to the protection needs of affected populations. Specifically, the Protection Cluster shall:
  - a) actively seek to include key humanitarian partners able and willing to contribute expertise, knowledge and/or resources relevant to the priority protection issues;
  - b) support effective coordination of protection activities among humanitarian partners. This includes among others, securing commitment of humanitarian partners to share information, respond to identified needs, fill gaps, ensure an appropriate distribution of responsibilities and complementarities of different actors, and promote responses to urgent protection concerns;
  - c) establish effective links with the Iraq based clusters and other relevant thematic working groups/task forces;
  - d) ensure that protection concerns and standards are appropriately represented within protection-related forums, as well as provide guidance in liaison with other Clusters/working groups/task forces;
  - e) ensure utilization of participatory and community based approaches in protection needs assessment, analysis, contingency and other planning, monitoring and response;
  - f) seek to develop a common protection strategy at national level including the identification of gaps, and a predictable work plan;
  - g) seek to develop a protection strategy and guidance notes on prioritized themes for the Humanitarian Country Team;
  - h) seek to support the development of a comprehensive protection of civilians strategy;
  - i) represent the interests of the Protection Cluster in discussions with the Humanitarian Coordinator, at Inter-Cluster meetings, and with other stakeholders on prioritization of issues for humanitarian action, resource mobilization, and advocacy;
  - j) facilitate the mainstreaming of protection/gender/age/disability mainstreaming into humanitarian action undertaken by other Clusters/working groups/task forces and provide support to or request support from other Clusters/Working Groups as necessary;

- k) raise awareness among other Clusters/Working Groups and Cluster/Working Groups Leads regarding the responsibility to ensure that protection concerns related to their respective clusters/working groups are addressed;
- l) ensure that Cluster members are aware of and utilize relevant policy guidelines, technical standards (such as Sphere) and relevant international human rights law and humanitarian law;
- m) support the establishment, standardization and maintenance of monitoring, response and reporting mechanisms on protection issues and trends analysis in order to inform programming and advocacy by the Protection Cluster and its members, as well as to enable referral of survivors of specific violations to specialized services;
- n) endeavor to effectively engage with relevant mechanisms on protection issues;
- o) endeavor to effectively engage with relevant stakeholders and parties to conflict to promote adherence to International Humanitarian Law and Human Rights Law, in coordination with ICRC;
- p) advocate with donors to fund humanitarian actors to carry out priority activities, while at the same time encourage Protection Cluster members to mobilize their own resources for their activities through their usual channels.

#### **D. Participation and Membership in the Protection Cluster**

9. The Protection Cluster is open to all UN agencies, international organizations, national and international NGOs or entities, involved in ensuring the respect of the protection environment for civilians in Iraq.
10. Representatives of national, regional, local authorities and other stakeholders, such as donors can be invited to participate in Protection Cluster meetings as agreed upon by its members.
11. Participation in the Protection Cluster is divided between (a) members of the cluster and (b) organizations affiliated to the cluster;
12. Membership in the Protection Cluster requires:
  - a) regular participation at the national, regional or field level in protection cluster and/or working group/task force meetings. In locations where there is no operational protection cluster or working group(s), organizations will not be required to have staff travel to attend a meeting;
  - b) mandatory completion of “activity-info” and/or where applicable, the quarterly or Working Group 4W (monthly) when requested by the Protection Cluster Secretariat or Working Group chairs. An organization that does not complete these tools within a reasonable period of time is deemed by the Protection Cluster Secretariat to no longer undertake protection activities, and will be listed as an Affiliated Organization;

- c) organizations must undertake responsive and/or preventive activities as well as advocacy, capacity building, or awareness raising;
  - d) share responsibility for Protection Cluster activities, including assessing needs, sharing information, developing plans, policies and guidelines; and
  - e) respect and adhere to agreed principles, policies, priorities, and standards.
13. An Affiliate Organization is an organization that: wishes to receive protection information but is not undertaking protection activities as per the above-mentioned requirements; has a demonstrable and valid reason for receiving protection information; and refrains from using its affiliation with the Cluster, or information obtained through its affiliation with the Cluster, in any way that violates or jeopardizes core protection principles (including 'do no harm'). An affiliate organization is eligible to attend any National Protection Cluster meeting, and will receive all protection information circulated to members, but will be unable to participate in decision-making and will not benefit from the same favourable consideration that members receive with regard to funding opportunities.
14. Full membership in the Protection Cluster privileges the member to participate/vote on decisions taken by the Protection Cluster. The project of full members will be considered in the humanitarian funding mechanisms additional consideration. Affiliated members will receive Protection Cluster Meeting minutes but not the SAG minutes or restriction documentation. The projects of affiliated members will be considered for humanitarian funding but not prioritized as members' projects.

#### **E. Protection Cluster Chair and Co-Chair Responsibilities**

15. The Cluster Coordinator (Chair and/or Co-Chair) is accountable to the Humanitarian Coordinator and reports regularly to the Protection Cluster Lead (UNHCR Iraq Representative), with the aim of ensuring a more effective and coordinated response capacity vis-à-vis IDPs and affected communities.
16. Specific tasks of the Protection Cluster Chair and Co-Chair include:
- a) Monitoring and reporting;
  - b) Identification of key protection partners;
  - c) Planning and strategy development;
  - d) Advocacy and resource mobilization;
  - e) Coordination of program implementation; and,
  - f) Communicating with, and providing timely feedback to, partners.

#### **F. Protection Cluster Architecture**

17. There are four national sub-clusters within the Iraq Protection Cluster:
- Child Protection, led by UNICEF
  - Gender-Based Violence, led by UNFPA
  - Mine Action, led by UNMAS
  - Housing, Land and Property, led by NRC
18. Sub-Clusters have their own terms of reference and rules for participation, functions and meetings, which should be aligned with, and not contradict the terms of reference of the National Protection Cluster. Sub-Cluster can have co-leads, whose choice and status will depend on the terms of reference of each sub-cluster.
19. There are Protection Working Groups in South/Central Iraq and in the Kurdistan Region of Iraq (KR-I)<sup>2</sup> to support activities of the Protection Cluster.
20. A Strategic Advisory Group (SAG), comprised of key UN agencies and protection actors in Iraq, is providing strategic guidance to the National Protection Cluster. Composition, function and meeting structure of the SAG are detailed in Annex 1.
21. The Protection Cluster is chaired by UNHCR. The Co-Chair will be a national or international NGO with a protection focus and operations in different parts of Iraq. The selection of a Co-Chair should be regularly reviewed with the objective of periodic rotation. As of June 2016, the Protection Cluster is chaired by UNHCR and co-chaired by the Danish Refugee Council (DRC).
22. The Protection Cluster Secretariat consists of the Chair and Co-Chair and a Cluster Support staff.<sup>3</sup> The Secretariat's role is to manage the day-to-day operation of the Protection Cluster, and to facilitate guidance and strategic direction as stipulated by the SAG and the Protection Cluster at large.
23. The Protection Cluster in South/Central and the Protection Cluster/PWG in the KRI oversee specific geographic areas and, in consultation with the Protection Cluster for Iraq, determine which working groups, task forces, consortia etc., they wish to establish and maintain and who should be the chair/co-chair.
24. Based on requirements and the needs to address protection concerns efficiently and effectively, the Protection Cluster at country, South/Central or KR-I level can establish additional working groups, ad hoc thematic groups, task forces, steering committees, etc.

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<sup>2</sup> The Protection Cluster for the KR-I is part of the Protection Sub-Working Group for the KR-I (PsWG-KRI) that has been established as part of the United Nations Development Assistance Framework (UNDAF). The group was subsequently established as Protection Working Group, Kurdistan Region of Iraq (PWG/KR-I).

<sup>3</sup> As of June 2016, this consists of one Information Management Officer (UNHCR).

25. In consultation with the National Protection Cluster, the South/Central and the KRI Clusters/Working Groups may establish their own Technical (or Steering) Committees.

### **G. Frequency of Meetings**

26. The Protection Cluster meets every three months though extraordinary meetings may be called by the Chair/Co-Chair, or at the request of a member of the SAG.

27. At the meeting, information will be shared, protection concerns highlighted, and updates from the regions through Protection Cluster members and its constituent bodies provided.

28. Each Sub-Cluster or Working Group at country and where applicable, south/central or KR-I level will set the frequency of their own respective meetings.

### **H. Voting**

29. Decisions of the Protection Cluster, as well as the Sub-Clusters and sub-national bodies, are ideally taken by consensus and efforts to foster consensus shall be made. However, in the absence of consensus on an issue, a vote may be taken and a decision made on the basis of a 51% majority of members participating in the meeting. Decisions regarding the composition of the SAG (see Annex 1) are validated by a 2/3 majority.

30. Any member of good standing can call for a vote on an issue and, if seconded, a vote shall be taken. No decision may be taken within the context of a meeting that active members, on whole, did not have a fair opportunity to attend (e.g. because the meeting was not publicized through normal channels or because too little notice was given). For the National Protection Cluster, there is not a minimum quorum for decision-making.

31. The Cluster and its constituent bodies may develop voting mechanisms to be used when facilitating a vote of their full members is not possible (e.g. due to time constraints). These mechanisms, including when they can be invoked and how they will operate, must be clearly stated within the body's terms of reference and formally endorsed by a vote of the membership before taking force. For the National Protection Cluster, the Strategic Advisory Group (as outlined in Annex 1), exists in part for this purpose.

32. The outcomes of all decisions that come to a vote through alternate voting mechanisms shall be communicated to the full membership. A vote of the full membership, e.g. as herein outlined in paragraph 29 and 30, takes precedence over any vote made through alternate voting mechanisms; thus, by calling for a standard vote, members reserve the right to overrule decisions made through alternate mechanisms.

33. Decisions that are otherwise taken, i.e. not in accordance with agreed-upon mechanisms or not communicated to partners, are void.

34. Consensus or a vote, whether by the full membership or through alternate mechanisms, is required for any item to be formally considered a product of the Cluster, Sub-Cluster, or sub-national body (as the case may be). When items remain in draft format or lack formal endorsement, this shall be clearly communicated.

#### **I. Agenda and Action Points**

35. National PC meetings will be arranged by the Protection Cluster Secretariat.
36. A draft agenda will be circulated to Protection Cluster Members and Affiliate Organizations at least two days ahead of the meeting. Draft minutes will be circulated within one week of the meeting.
37. At the Protection Cluster meeting updates from the Sub-Clusters and where required, the Working Groups/Task Forces in south/central and the KR-I are a standing agenda item. The chairs/co-chairs of those Sub-Clusters/Working Groups/Task Forces will provide updates on key activities and decisions and highlight issues that require discussion and action by the Protection Cluster.
38. Action points from Sub-Clusters, Working Groups, etc that require action by the Protection Cluster must be sent to the Protection Cluster Secretariat, which in turn will table the action points for discussion at the next SAG meetings. Feedback and decision(s) reached by the SAG will be communicated to the requesting Sub-Cluster/Working Group etc by the Protection Coordinator/Chair or Co-Chair.
39. Meetings by the Sub-Clusters, Protection Working Groups, task forces etc. in south/central and the KR-I will follow the above mentioned process to the extent possible.

#### **J. Terms of Reference of the Protection Cluster for Iraq**

40. Terms of References shall be reviewed on an annual basis or as requested by a vote. The date for review, after which the Terms of Reference are null and void, shall be one year from the date of last adoption.

## **ANNEX 1 – TERMS OF REFERENCE OF THE PROTECTION CLUSTER STRATEGIC ADVISORY GROUP**

### **A. MEMBERSHIP OF THE STRATEGIC ADVISORY GROUP**

1. The Strategic Advisory Group (SAG) is composed of the Secretariat of the Protection Cluster, coordinators of Sub-Clusters and KR-I and Center South Protection Working Groups and of key UN agencies and protection actors in Iraq, as follows:
  - Secretariat of the Protection Cluster
  - One member for each Sub-Cluster
  - One member for each Protection Working Group
  - UN agencies: UNHCR, UNFPA, UNMAS, UNICEF
  - Protection actors: a representative of NCCI Advocacy Working Group and 3 Protection NGOs selected by the National Protection Cluster upon recommendation of the SAG. Priority will be given to organizations with a broad area of expertise and/or with a consistent geographical coverage.
2. Changes to the composition of the SAG, as outlined above in paragraph 1, must be ratified by a 2/3 majority vote of the National Protection Cluster. The protection actors that serve as NGO members on the SAG shall be reviewed on a yearly basis.
3. A member can renounce its participation from the SAG with a request from the head of the organization to the SAG and the Secretariat of the Protection Cluster. Sub-clusters cannot renounce membership but can choose whether the sub-cluster coordinator or co-coordinator will participate.
4. To allow for continuity of work within the SAG, each organization must nominate a dedicated member to attend the SAG and an alternate member. Only one person can represent the organization in the SAG, but both members of the organization will be kept informed of SAG activities.
5. The SAG can nominate observers on a temporary or permanent basis to support the functions of the SAG. Temporary observers can be nominated for their expertise in a certain field while the issue is under consideration by the Protection Cluster. Permanent members can be nominated to reinforce coordination with other organizations or humanitarian mechanism or to prepare for a member to become full member. Observatory membership is decided by 2/3 of the SAG.
6. Members of the SAG take on the commitment of active participation in both the Protection Cluster and the Strategic Advisory Group. Members that do not actively participate in either body can be suspended from participating in the SAG.

## **B. FUNCTION OF THE STRATEGIC ADVISORY GROUP**

7. The SAG proposes and prepares strategic decisions for the Protection Cluster and provides technical expertise for the Protection Cluster coordination. Functions of the SAG are *inter alia*
  - Serve as a decision-making body, as outlined below, when consultation and voting within the context of the Cluster's full membership is not practical;
  - Elaborate all strategic documents for the Protection Cluster, including strategies, terms of reference of working groups of the National Protection Cluster and documents relating to international funding appeals. The SAG and particularly the coordinators/co-coordinators representing the sub-clusters, will take a lead role in approaching donors with respect to funding needs. Further, they will ensure that strategies and ToRs of Sub-Cluster are not in contradiction with the National Protection Cluster strategic documents;
  - Provide strategic, technical support and guidance to Sub-Clusters and sub-national bodies;
  - Define strategic positions and orientations for the advocacy role of the Protection Cluster and support elaboration of advocacy documents if relevant;
  - Support the training and sensitization activities of the Protection Cluster;
  - Define and support priority protection missions in the country;
  - Lead the Monitoring and Evaluation mechanism of the Protection Cluster;
  - Address critical protection issues, trends and gaps that require coordinated responses and/or high level-advocacy, including through the development of a common Cluster position.
  - Follow-up on actions points and recommendations done to the SAG by the Protection Cluster.
8. The Secretariat of the Protection Cluster reports regularly on SAG activities to the Protection Cluster.

## **C. VOTING**

9. In accordance with its Terms of Reference (paragraph 29-34), the National Protection Cluster delegates limited decision-making authority to the SAG as outlined herein.
10. On behalf of the Protection Cluster, the SAG may take decisions under the following circumstances:
  - When voting within the context of the full membership is not possible due to the time-sensitive nature of the issue(s) under consideration.
  - When the issue(s) of consideration entails inherently sensitive information that cannot be shared widely due to protection concerns.

11. The SAG shall strive for consensus when resolving issues. However, in the event that consensus cannot be reached, and that a decision must be taken, SAG members may call for a vote. The following applies to the voting procedure:
  - Taking into consideration that each SAG member represents a broader base of partners (those within their AoR), each member is expected to consult with partners, including the focal points of their sub-national bodies, to the extent possible before casting a vote.
  - A vote may not be taken in the absence of a quorum, which is half of voting members.
  - Each member (as outlined in para. 1 of this Annex) is entitled to one vote and a decision is made in accordance with a simple majority (51%). No one individual may cast two votes (e.g. on behalf of a sub-cluster and lead agency on the basis that he or she is representing both at the meeting). Members of the secretariat shall only vote in the event of a tie.
12. The outcomes of all decisions shall be communicated to the full membership. Cluster members reserve the right to call into question the validity of a decision taken by the SAG.

#### **D. MEETINGS OF THE STRATEGIC ADVISORY GROUP**

13. The SAG meets once a month. The Secretariat of the Protection Cluster calls for the meeting, proposes a draft agenda at least 48 hours before the meeting. Members of the SAG can request for a specific point on the agenda.
14. The SAG can meet on an *ad hoc* or emergency basis if an issue needs to be raised before the next monthly meeting. Any member of the SAG can request an *ad hoc* or emergency meeting. The Secretariat of the Protection Cluster is in charge of sending invitations.
15. Minutes of SAG meetings are taken by the Secretariat of the Protection Cluster and communicated after each meeting, focusing on action points.

#### **E. ELECTRONIC MEETINGS OF THE STRATEGIC ADVISORY GROUP**

16. In order to reduce the number of formal meetings and to favor participation of SAG members, the SAG can decide on a specific point by holding electronic meetings, for the validation of an issue that in line with Section C of the present Annex. This electronic meeting can be requested by any member of the SAG in coordination with the Secretariat of the Protection Cluster.
17. The Secretariat of the Protection Cluster sends an email to all members of the SAG with a deadline. Members can be contacted individually as well if relevant. Absence of response by a SAG member within the deadline will be considered as consensus on the issue.
18. After an electronic meeting, the discussion on a specific point can be reopened in a SAG meeting. The Secretariat of the Protection Cluster will report on electronic meeting decisions during monthly SAG meetings.