



PROFESSIONAL STANDARDS FOR PROTECTION WORK

**CARRIED OUT BY HUMANITARIAN AND HUMAN RIGHTS ACTORS
IN ARMED CONFLICT AND OTHER SITUATIONS OF VIOLENCE**



ICRC



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Table of contents

Introduction	7
Why protection standards are needed	7
Scope and limitations of the project	9
For whom the standards are intended	10
Structure of the document	11
Issues covered by the standards	11
Acknowledgements	13
Chapter 1 The overarching principles in protection work	15
Respecting the principles of humanity, impartiality and non-discrimination	18
Avoiding harmful effects	20
Managing protection strategies	21
Putting the affected population, communities and individuals at the centre of protection activities	22
Chapter 2 Outlining the protection architecture	27
Relating with the formal duty bearers	30
Ensuring clarity and transparency of intent	32
Interface with non-humanitarian actors engaged in protection	33
Chapter 3 Building on the legal base of protection	35
Knowing the legal framework	37
Referring to the law with consistency and impartiality	39
Maintaining coherence and accuracy	40
Using reference to relevant regional and domestic laws	41
Upholding existing legal standards	41

Chapter 4	Promoting complementarity	45
	Complementarity of action among protection actors	49
	Complementarity of principles among protection actors	50
	Complementarity of analyses	50
	Mobilizing other protection actors	51
	Providing information on protection services and facilitating referral in emergency situations	51
	Responding to violations	52
Chapter 5	Managing sensitive protection information	55
	Respecting the basic principles	58
	Ensuring relevance and quality	60
	Preparing interviews and ensuring informed consent and privacy	63
	Cooperation and exchange	66
Chapter 6	Ensuring professional capacity	69
	Ensuring relevant capacity and competencies	71
	Staff training	72
	Managing staff safety	73
	Ensuring ethical conduct by staff	74
	Developing these standards – an ongoing process	77
	Selected reference material	79



Franco PAGETTI/ICRC/VII

Introduction

Protecting people caught up in armed conflict and other situations of violence is a critical challenge. In many armed conflicts, distinctions between civilians and combatants are deliberately blurred. All too often civilians are the target of attacks and systematic violations and abuse of their rights. States and other relevant duty bearers frequently lack the capacity – or the will – to ensure effective protection of those at risk. Worse still, they may themselves perpetrate violence and abuse against certain segments of the population.

The international community has not remained indifferent to this challenge. Significant improvements have occurred in recent years in the response to protection crises. A key factor has been the marked increase in the number and diversity of humanitarian and human rights actors involved in promoting the protection of those at risk of violations or abuses in armed conflict and other situations of violence. Today, a broad range of both humanitarian and human rights actors can be found in practically all hot spots around the globe, as well as in critical situations outside the spotlight of the global media.

This growth in numbers has brought enhanced variety and sophistication to protection work, which in itself is a positive and welcome development. However, with increased numbers and diversity comes greater complexity. The overall increase in operational presence has meant an ever-closer proximity among humanitarian and human rights actors engaging in protection work, which have now developed complementarities in extremely complex operating environments. The broad gap that formerly separated humanitarian and human rights workers has been reduced, and greater coherence has been established. But differences in approaches and aspirations still exist. While simultaneous presence can produce positive synergies, it can at times create confusion. This document recognizes differences between the two sets of actors, but is founded on the conviction that there is enough common ground to establish a firm, shared basis for their protection work in armed conflict and other situations of violence.

Why protection standards are needed

The new opportunity of an enhanced response capacity, which offers greater breadth and depth of specificity and increased complementarity, also inevitably brings with it a wide diversity in terms of the quality of the protection work being done. The absence of common professional standards can, indeed, lead to situations in which protection work could actually cause harm to the very people and communities it seeks to protect.

It is now generally agreed that an effective protection response demands adequate professional competence, and that a concerted effort is required to ensure that protection work by humanitarian and human rights actors meets commonly agreed,

minimum professional standards. While respecting the diversity of actors and approaches involved, the aim is to establish a baseline to be respected by all. However, defining and building consensus on what this means is a major challenge.

The objective of the ICRC-led workshops that took place between 1996 and 2000 was to determine professional standards to strengthen protection in war. A summary of the results is to be found in *Strengthening Protection in War: a search for professional standards*, ICRC (2001). It defines a number of useful conceptual references for protection work that include “modes of action” and the “protection response egg”, now widely used.¹ Another important output was an agreed definition of protection, as quoted below.

Definition of protection

“The concept of protection encompasses:

“.. all activities aimed at ensuring 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, and refugee law. Human rights and humanitarian organizations must conduct these activities in an impartial manner (not on the basis of race, national or ethnic origin, language or gender).”²

This definition helped to establish greater understanding between humanitarian and human rights actors, and prompted the former to increasingly adopt a rights-based approach. However, the formulation of an adequately broad and comprehensive body of professional standards for protection work undertaken by these actors remained elusive.

Several initiatives have contributed, since then, to the search for professional standards in protection work, including the Sphere Project,³ and various United Nations and NGO initiatives.⁴ However, each of these efforts has tended to be based on a specific approach to protection or a given operational context. Overarching principles and fundamental elements which establish the foundation for safe and effective protection work in general were yet to be articulated. The focus of this project has therefore been to develop such a set of commonly agreed standards that can apply to all humanitarian and human rights actors doing protection work in conflict and other situations of violence.

1 Participants identified five distinct modes of actions that may also be combined: substitution, support, mobilization, persuasion and denunciation. The protection egg is a graphic representation of three different levels of action in the face of any pattern of abuse: halting its occurrence, working alongside the victims, and promoting lasting changes in the environment in order to diminish the likelihood of recurrence.

2 S. Giossi Caverzasio (ed.), *Strengthening Protection in War: A Search for Professional Standards: Summary of Discussions among Human Rights and Humanitarian Organizations*, Workshops at the ICRC, 1996-2000, ICRC, Geneva, 2001.

3 See the Sphere Project, *Humanitarian Charter and Minimum Standards in Disaster Response*, 2004 Edition.

4 See for example the initiative, *Minimum Agency Standards for Incorporating Protection into Humanitarian Response*, Field Testing Version, Caritas Australia, CARE Australia, Oxfam Australia, World Vision Australia, 2008.

Scope and limitations of the project

The standards and guidelines that follow are the result of an extensive consultative process. They reflect shared thinking and common agreement among humanitarian and human rights actors on minimum but essential elements, as well as principles and good practice required to ensure that their protection work is as safe and effective as possible.

These standards are not intended as operational guidance. They offer a broader perspective that defines the basic ingredients and competencies required for effective protection work. They also seek to orient protection actors within the formal global protection architecture, and vis-à-vis each other. Within this broader perspective, a “protection actor” is understood as an organization, as opposed to an individual. The standards thus constitute the minimum obligations that apply to any humanitarian or human rights organization engaged in protection work in armed conflict and other situations of violence.

Although fairly comprehensive in scope, the project makes no claim to be exhaustive in terms of the standards that have been defined. Both protection work and the environment in which it takes place are dynamic and are evolving rapidly. The standards thus represent a living body of work that is likely, over time, to gain in breadth and precision. They will achieve wider concurrence through their application, and through further reflection and research by the diverse actors who use them.

The standards make no attempt at further refining the definition of protection (as presented in the box above). On the other hand, they duly reflect the current view that persons at risk must themselves be at the centre of action taken on their behalf, playing a meaningful role in analysing, developing and monitoring protection responses to the threats and risks they confront. Beyond improving their physical security, promoting the respect of the rights, dignity and integrity of those at risk are seen as critical elements of any protection effort.

The content of this document is equally applicable to humanitarian and to human rights actors. With the ever-increasing proximity of these actors in highly complex operating environments, commonly agreed professional standards are essential for greater predictability and more effective interface and complementarity. There is no attempt, however, to define the extent to which humanitarian and human rights actors should seek overlap, distinction, commonality or complementarity in their protection work.

Nor is there any intention to exclude, limit or restrict who does what in protection. There is also no intention to standardize protection work in the sense of encouraging an increasingly uniform approach, nor to regulate and thus restrict the rich and evolving diversity that is a strength of the sector. The aim is rather to encourage diversity of approach and activity at both organizational and collective levels, while providing a baseline to ensure the safest, and most effective response in addressing the critical needs of persons at risk.⁵

⁵ Although developed for protection work in armed conflict and other situations of violence, these protection standards can be considered largely applicable to protection actors doing protection work in situations of natural disasters as well.

For whom the standards are intended

These standards are addressed to all humanitarian and human rights actors engaged in protection work in favour of communities and persons at risk in armed conflict and other situations of violence. Such work can include efforts to encourage formal duty bearers to assume their obligations more fully; or to enhance the capacity of those at risk to avoid or reduce their exposure to threats, and to overcome or cope better with the consequences of protection failures that affect them.

Not all humanitarian actors implement protection activities *per se*, although all need to integrate protection concerns into their practice. Such concerns are already present in concepts such as “doing no harm”, “mainstreaming protection”, or “good quality programming”. Clearly, any humanitarian actor bears the burden of ensuring that its activities (whether for relief, development, or for other goals) do not contribute to creating or aggravating risks confronting the communities and individuals in whose favour they work. A typical example is that of ensuring the safe location of latrines or other facilities as part of water and sanitation programmes. Safety must be considered as a basic element of good programming. Actors who limit themselves to the integration of protection concerns into their everyday activities can certainly gain inspiration from these standards, but are likely to find more practical guidance in the latest version of the Sphere standards.

On the other hand, the “protection actors” specifically targeted by these standards are those humanitarian and human rights actors which engage directly in protection work in armed conflict and other situations of violence – explicitly putting the protection problem at the centre of their efforts. In the above example of the safe location of facilities, such an actor might also decide to take direct action to persuade the authorities to improve the safety of the area. It might choose to document and reference several recent incidents as means to justify a call for urgent action by the police or military to improve the security in the area of concern. This action might include bilateral or multilateral communication, that can be either confidential or public, undertaken individually or jointly with other stakeholders.

As stated earlier, these standards reflect shared agreement among protection peers on baseline requirements for safe and effective protection work. As such, they demand serious consideration. However, since there is no formal oversight mechanism to monitor their application, it is up to each protection actor to take the necessary measures, on an independent basis, to ensure the quality of its work. This requires a commitment to acknowledge and to address difficulties that might cause a failure to reach these standards.

If unable to meet these minimum standards, a protection actor would be expected to take steps to acquire the necessary means and resources to do so, or to conclude that it is not in a position to undertake protection work in armed conflict and other situations of violence.

Structure of the document

Standards, guidelines, and explanatory notes



The document presents a series of *standards* and *guidelines*, each accompanied by *explanatory notes*.

The *standards* constitute what are considered by the community of practitioners as minimum requirements for all humanitarian and human rights actors planning or carrying out protection activities in armed conflict and other situations of violence. As explained above, these standards define the minimum baseline that all humanitarian and human right actors doing protection work must maintain.

It is likely that, in specific areas, some actors will be able to establish internal standards at a higher level than those to be found here, owing to the expertise and capacities they possess and their approach to protection work. Clearly, the higher standard (as set by a given organization) should take precedence.

The *guidelines*, on the other hand, are intended as useful and, in some cases, essential reference criteria. However, their application is likely to require more flexibility than that of standards, as they cannot be applied at all times by all actors. Some guidelines could even be adopted as standards by some organizations, but the same guidelines would be unrealistic, infeasible or irrelevant to others, depending on the nature of their work, the approaches they adopt and the activities they undertake.

The *explanatory notes* aim to capture the main elements that sustain and justify each standard or guideline. They outline the main challenges the standards and guidelines are designed to tackle, the limitations and constraints, as well as the dilemmas they might pose to protection actors. They also cover some practical considerations as to their application. Despite having benefited from an extensive consultative process, these explanatory notes do not claim to be exhaustive, but aim rather to be illustrative. Nor do they constitute an operational manual on the application of the standards and guidelines, or on conducting protection activities. It is the responsibility of each protection actor to determine how to incorporate these standards and guidelines into its own practices.

Throughout the text,
the standards are flagged by the symbol 
and the guidelines by the symbol 

Issues covered by the standards

The standards and guidelines cover diverse issues of current concern, ranging from the responsibility of protection actors vis-à-vis the existing formal protection architecture, to the need to avoid any negative impact in their work, and to ensure that they possess the essential competencies required. Some issues are addressed at a broad conceptual level, while those of a more technical nature are treated in greater detail and in more concrete terms. The standards and guidelines are numbered chronologically throughout the document. They are organized into six chapters, falling into two categories, as follows:

Overarching principles and operational framework

1. The overarching principles in protection work

This first chapter aims to define the main principles that are central to protection work undertaken by humanitarian and human rights actors, and that are common to all protection activities and strategies.

2. Outlining the protection architecture

This chapter is concerned with the components of the existing formal/legal protection architecture, and how humanitarian and human rights actors doing protection work should relate to this architecture as well as to each other.

Technical issues

1. Building on the legal base of protection

This chapter establishes standards and guidelines that concern action designed to compel the authorities to assume their responsibilities on the basis of rights of persons and obligations of duty bearers, as defined by various international legal instruments and domestic legislation.

2. Promoting complementarity

This chapter is concerned with managing effective interaction between the wide range of humanitarian and human rights actors doing protection work. It recognizes the varying approaches they may adopt, and defines minimal measures required to ensure that their activities complement those of others.

3. Managing sensitive protection information

This chapter deals with the management of data on individuals and on specific incidents of violations and abuse. While not, *per se*, a protection activity, data management is an integral part of many protection activities. Despite the sensitive nature of these data, their management is often substandard, owing to lack of knowledge, expertise or capacity. This chapter therefore goes into considerable detail, emphasizing the need for due care throughout the process of collecting, codifying, transmitting, and finally storing these data.

4. Professional capacity

This chapter is concerned with the attention that all protection actors must give, at an internal level, to ensuring that their stated intentions correspond to their capacity to deliver. It underlines that a protection actor must be able to define its objectives; specify how it plans to achieve them; ensure the requisite capacity; and implement its stated intentions in a reliable and predictable manner.

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Christopher MORRIS/ICRC/VII

Chapter 1:

THE OVERARCHING PRINCIPLES IN PROTECTION WORK

Standards and guidelines

-  1. Protection actors must ensure that the principle of humanity is at the core of their protection work. 18
-  2. Non-discrimination and impartiality must guide protection work. 18
-  3. Protection actors must ensure that their activities do not have a discriminatory effect. 19
-  4. Protection actors must avoid harmful effects that could arise from their work. 20
-  5. Protection actors must contribute to the capacity of other actors to ensure that no harmful effects derive from their actions. 20
-  6. Protection actors must analyse the protection needs in their area of competence, prior to engaging in protection activities. They must use this analysis to determine priorities. 21
-  7. Protection actors must monitor and evaluate their protection activities and adjust their approach accordingly. 21
-  8. Protection work must be carried out with due respect for the dignity of individuals. 22
-  9. Protection actors must seek to engage in dialogue with persons at risk and ensure their participation in activities directly affecting them. 22
-  10. Protection actors should consider building on the capacities of individuals and communities to strengthen their resilience. 24
-  11. Protection actors working with affected populations, communities and individuals should inform them about their rights, and the obligations of duty bearers to respect them. 25

The overarching principles in protection work

This chapter aims to define the main principles that are central to protection work undertaken by humanitarian and human rights actors, and that are common to all protection activities and strategies.

The first section emphasizes the importance of the principles of humanity, impartiality and non-discrimination, recalling that it is concern for individuals at risk that drives protection work. It explains that although both neutrality and independence are often crucial to gaining access to, and maintaining proximity with all victims in a situation of conflict, these are not principles to which all protection actors must necessarily subscribe. With the changing nature of conflicts and of approaches to humanitarian action, such principles cannot be considered to apply to all protection actors. Indeed, ever fewer actors outside the Red Cross and Red Crescent Movement apply them as a method of working. Some human rights actors implement meaningful protection activities while choosing not to remain neutral.

The second section reiterates the fundamental obligation for all actors doing humanitarian work to avoid activities that could aggravate the situations of those they seek to support. It explains that this is even more relevant to protection work, which can be extremely sensitive, and engender potentially severe consequences for the population. The responsibility to manage and mitigate these risks lies with those actors doing the work.

The third section considers accountability in protection, underlining the need for a systematic approach to determining priorities, setting clear objectives in accordance with institutional priorities and capacities, and designing a plan of action. It explains how monitoring and evaluation tools are essential to ensure that activities are regularly adjusted to achieve optimum impact. While some of these issues are not necessarily specific to protection work, they are developed here because protection actors tend to experience particular challenges in incorporating them in a meaningful way into their work.

The final section underlines that communities and individuals at risk – to whom protection workers should be answerable – are themselves critical actors in the protection process. Protecting and promoting their rights, dignity and integrity is essential for the effectiveness of this work. It entails ensuring that they play a key role, influencing decisions, and making practical recommendations based on their intimate understanding of the nature of the threats, violations and abuses to which they are exposed. It is also important to strengthen any effective coping mechanisms established among affected communities or individuals.

Respecting the principles of humanity, impartiality and non-discrimination

1. Protection actors must ensure that the principle of humanity is at the core of their protection work.

The principle of humanity – that all people must be treated humanely in all circumstances – remains fundamental to effective protection work, placing the individual at risk at the centre of protection efforts. It demands that priority be given to protecting life and health, alleviating suffering, and ensuring respect for the rights, dignity and mental and physical integrity of all individuals in situations of risk.

2. Non-discrimination and impartiality must guide protection work.

The principle of non-discrimination guards against unjust distinction in the treatment of different groups or individuals, on the basis of race, colour, sex, age, language, religion, political or other opinion, national or social origin, property, birth or other status.

The principle of impartiality aims to ensure that a protection activity addresses the specific and most urgent protection needs of affected communities and individuals. It thus requires that humanitarian and human rights actors define the protection activities to be undertaken in their area of responsibility, following an assessment of needs using objective criteria.

The application of these principles does not preclude taking account of particular elements (such as gender or age) as factors of specific vulnerability. On the contrary, as indicated in Standard 3 below, such factors must be duly considered when assessing needs. Children for example, tend to be disproportionately affected by conflicts and other situations of violence, and are usually at greater risk due to their stage of development and dependence, especially when separated from their families or habitual caregivers. Taking such specific vulnerabilities into account is essential in order to analyse needs, consult and plan, and to ensure that critical protection needs are prioritized and addressed.

The challenge of respecting the principles of non-discrimination and impartiality is often compounded by the complex operating environment in which protection work occurs. Difficult choices face protection actors when they are unable to address all the urgent needs they confront. Moreover, the concept of impartiality (as distinct from equality) is often not well understood or accepted within the affected populations. In their efforts to reach those within a given community who are the most vulnerable and face the most imminent or direct threats, protection actors can be perceived as unsympathetic to the difficulties facing the community as a whole. Indeed, the strict application of the principle of impartiality may itself generate further tensions within or between communities, putting vulnerable persons at even greater risk.

Finally, problems such as inaccessibility due to denied access, insecurity or infrastructural constraints may often limit the feasibility of a truly impartial and non-discriminatory response. While not discriminatory *per se*, these constraints need to be identified, explained and discussed with the population concerned. Efforts should be made to overcome them as rapidly as possible, in order to mitigate their discriminating effects.



3. Protection actors must ensure that their activities do not have a discriminatory effect.

In their work, protection actors must ensure that their analyses, activities or communications do not distort perceptions of a protection crisis. Disproportionate representation or, worse still, the misrepresentation of protection issues either in bilateral communications with duty bearers, or more publicly, can severely distort the understanding of a situation and misinform the response of others.

It is common practice when defining operational objectives, for protection actors to establish institutional priorities according to themes, population groups, etc. While these priorities are not discriminatory as such, measures should be taken to prevent them from leading to unintended discriminatory practices.

Adjusting responses to meet the specific needs of particular groups within any population at risk is important to ensure that all have the possibility to assert their rights. For example, specific population groups with recognized vulnerabilities, such as children, may need targeted protection interventions by protection actors with the necessary skills to do so. However, protection activities should not be uniquely focused on a given group with particular needs, if this is at the detriment of another portion of the affected population suffering particular abuse or violations. This could, for example, be the case when abuses causing a displacement of population focalize attention on IDPs at the exclusion of those left behind – such as the elderly, the disabled, the sick or wounded, who might be physically unable to leave.

In the broader perspective, it is the collective responsibility of all actors engaging in protection work to ensure that no high-risk group is overlooked, and to ascertain that the overall response of the many protection actors involved in a given context is non-discriminatory. Questions relating to effective complementarity among different actors responding to the needs of diverse segments of the affected population are the subject of Chapter 4.

Finally, in cases where urgent needs exceed the capacity of a given protection actor, and triage prioritization is necessary, the criteria guiding such choices must be non-discriminatory.

Avoiding harmful effects

! 4. Protection actors must avoid harmful effects that could arise from their work.

Poorly conceived or carelessly implemented protection activities can aggravate or even generate additional protection risks for vulnerable populations. Although it is often extremely difficult to anticipate the consequences of certain activities, or to determine when an action could result in harmful effects, it is nonetheless the ethical and legal obligation of protection actors to take measures to avoid such negative consequences. Such measures are essential during the analysis, design, implementation and monitoring of all protection activities.

Protection actors must keep in mind that protection activities can inadvertently stigmatize individuals or communities who may be seen as providing sensitive information to monitoring bodies, or as supporting opposing parties. Such perceptions must be kept in mind by protection actors, who bear the responsibility of avoiding or mitigating such negative consequences of their activities.

! 5. Protection actors must contribute to the capacity of other actors to ensure that no harmful effects derive from their actions.

Those involved in protection activities tend to have a comparative advantage when it comes to analysing potential protection risks. They thus have a special role to play in raising awareness of the protection implications and potential risks of various actions. Examples include those of providing relief to IDP camps in a country at war, when armed groups are present among the displaced population, or re-establishing water pumps in villages regularly raided by neighbouring communities.

Arguably every humanitarian crisis has a protection dimension, requiring all humanitarian actors to consider protection concerns as part of their humanitarian activities. They feature, for example, in the context of “good quality programming” or “protection mainstreaming”, or in the application of the principle to “do no harm”. It is up to protection actors to encourage and inform the discussion of these concerns among non-protection experts, and to suggest measures they could take to reduce such protection risks.

In some extreme cases, the mere presence of humanitarian actors can be manipulated by an authority in its strategy to continue violating fundamental rights. A typical example is when national authorities plan to forcibly relocate a segment of its population, and call for the involvement of humanitarian actors at the relocation sites, in the hope that this engagement will diminish controversy and reduce international outcry over the process, possibly even legitimize it. Such cases pose serious ethical choices between the urgent need to alleviate the physical suffering of those affected (in terms of nutrition, shelter, sanitation, etc.) and the consequences of being manipulated while abuses are committed. These critical protection dilemmas can even prompt humanitarian

actors to contemplate withdrawal. Protection actors must therefore promote a more comprehensive approach to the protection dimensions of humanitarian crises, as part of their fundamental responsibility to “do no harm”.

Managing protection strategies



6. Protection actors must analyse the protection needs in their area of competence, prior to engaging in protection activities. They must use this analysis to determine priorities.

Whilst analysis is an important pre-requisite in all humanitarian programming, it has particular relevance for protection. Quick assessments may sometimes suffice in other sectors, but this is seldom the case in protection. Careful analysis of protection concerns, their impact on different populations, and the capacity and willingness of the primary duty bearers to address them, is critical for effective action. Understanding the causes and circumstances behind violations is essential in order to identify the most effective means of addressing them – addressing only the symptoms can sometimes do more harm than good. Protection actors should thus seek to analyse the institutions and people committing abuses, scrutinizing the chains of command, motivations, objectives and diverse driving interests, be they political, economic, criminal, personal, familial or ethnic, etc. Different contexts call for different protection responses, and an analysis specific to the context is key to determining both an initial course of action – and to informing its adjustment over time.

It follows that protection actors need regularly to monitor changes in the protection environment, and to adapt their priorities and strategies. This entails regular re-assessments of violations and abuses, their humanitarian impact, and any changes in the capacity and willingness of the authorities to comply with their protection responsibilities, as well as the capacity of affected populations to protect themselves.

Protection actors should take care to ensure that a broad cross-section of the affected population is included in the process, as more marginalized groups may be constrained from voicing their concerns.



7. Protection actors must monitor and evaluate their protection activities and adjust their approach accordingly.

Although in recent years, monitoring and evaluation have been included more systematically in protection planning, the challenge of making this standard practice persists. It is nevertheless now recognized that protection actors have an increased responsibility to establish adequate monitoring and evaluation systems in order to assess the effectiveness of their work – both against their operational objectives, and against broader contextual realities.

Anticipating and measuring the actual outputs, outcomes and impact of protection work however presents considerable difficulties. Protection activities, at their core, often aim to create behavioural change among those

violating and abusing human rights and committing violations of international humanitarian law (IHL). This is a notoriously complex process both to achieve and to measure. Establishing a baseline against which to measure outcomes and impact is particularly difficult. Isolating the cause and effect of the efforts of any one protection actor from the diversity of factors influencing a given situation is even more challenging.

The expectations associated with a given activity are inevitably linked to the prevailing operational realities and constraints. Moreover, the means of assessing impact may not always be direct. It may not be possible, for example, to collect information on the frequency of sexual attacks on women, whereas it may be possible periodically to assess less direct indicators, such as women's perspectives on their safety, or the degree to which they reduce their movements in a given area. If conducted systematically, periodic evaluations of this type of proxy-indicators can also provide an indication of shifting trends affecting a specific protection issue.

The difficulties in establishing and in meeting the demand for measurable results should in no way deter protection actors from endeavouring to innovate in this challenging area, and/or to tackle complex protection issues.

Putting the affected population, communities and individuals at the centre of protection activities

! 8. Protection work must be carried out with due respect for the dignity of individuals.

Respect for the dignity of affected persons should underpin all protection activities. While this is an important principle for all humanitarian and human rights work, it is essential in protection. Showing respect to individuals in situations of extreme vulnerability, such as detention, signifies recognition of shared humanity. It implies, *inter alia*, taking the time and having the empathy to listen to, and interact with individuals and communities.

Measures to respect, safeguard and promote the dignity of persons at risk are not limited to engaging with them in a respectful manner. They also include facilitating their access to accurate and reliable information, ensuring their inclusion and meaningful participation in decision-making processes which affect them, and supporting their independent capacities, notably those of making free and informed choices, and of asserting their rights.

! 9. Protection actors must seek to engage in dialogue with persons at risk and ensure their participation in activities directly affecting them.

The involvement of the affected population helps to ensure that protection activities respond to their needs. A dialogue with those at risk should seek to inform the identification of these needs, the planning, design and implementation of protection activities, as well as their monitoring, evaluation and adjustment. In addition to formal representatives, it is useful to identify

existing fora and associations, such as women's groups, pensioners' clubs, and cultural associations where minorities meet.

It is common for people at risk to have a detailed and intimate knowledge of the threats they face, and what action can be taken to improve their situation. Individuals and communities also devise independent strategies to cope better with their environment. It is thus important that a dialogue with affected individuals and communities should help identify self-protective actions that have proved effective, and could be reinforced.

Confidence needs to be built to ensure an open and constructive dialogue with the affected population. The level of this involvement will nevertheless depend on the nature of the population concerned, and the intended action. Special sensitivity and training is often needed to engage in a meaningful dialogue with affected individuals or communities, notably in the case of interviews with children, families of missing people, victims of sexual abuses and their families.

In some instances, unhindered access to the most affected population may not be possible. Such access may, for instance, be denied to some detention areas, or to particular communities. Here, choosing the correct course of action should be made on the basis of the best interest of the affected population.

Other barriers may also exist. In some instances, vulnerable people may be ostracized from the community in which they live. The community might even be the source of discrimination and intimidation against beneficiaries of a protection action (families of known political opponents, HIV-positive detainees, etc.). In other instances, an intended protection action may rely on maintaining confidentiality with the authorities, and the involvement of the community might jeopardize the action itself. In such cases, it should nevertheless be possible to provide an explanation of the purpose and potential risks and benefits of protection action, without entering into confidential details of the interventions with the authorities.

Once implementation of the protection activity has begun, protection actors should, where possible, re-visit the affected population to advise on progress attained, and monitor any positive or negative results. In situations where the protection response is of a long duration, such as tracing of missing persons, the protection actor should consult periodically with the community, in order to gather any new, relevant information and provide feedback on progress.

Actively engaging at-risk populations in protection activities provides a means for them to judge the performance of protection actors – which serves to increase the accountability of these actors. In reality, however, this accountability can be elusive. The relationship between communities and individuals at risk, and protection actors is characterized by a marked imbalance of power. Individuals and communities usually have little power to influence or control protection actors. They have minimal recourse when the work of the latter is inadequate, inappropriate or ineffective. Protection actors are often formally accountable to some form of oversight body such as member States, board of directors, or donors. These bodies may, at best, have a limited relationship with the affected population, which largely excludes the feasibility of "accountability by proxy". Proactive measures are required to help overcome

this structural deficiency, and to establish a reasonable level of accountability to communities and individuals at risk. These might, for example, take the form of complaints procedures, established by protection actors, to allow them to receive and treat complaints from affected populations and individuals.

Accountability of humanitarian actors

“...accountability is about using power responsibly where affected parties have a right to be heard, and those in power a duty to respond. Accountability involves three different processes: those through which individuals, organizations and States determine their decisions and actions; those by which individuals, organizations and States report upon and explain their decisions and actions; and those through which individuals, organizations and States may safely report concerns arising from the decisions and actions of others, and gain redress as and where appropriate.”¹



10. Protection actors should consider building on the capacities of individuals and communities to strengthen their resilience.

Those at risk usually have the clearest understanding of the nature of the risks they face (type of threats, potential perpetrators, time when the risks are higher). They often know what are some of the most effective means of mitigating these risks. Protection actors should assess the individual and collective capacities for protection that exist within the affected community. At a minimum, they must ensure that their own actions do not diminish these capacities. More ambitiously, they should try to the extent feasible to reinforce these capacities, and seek to strengthen their resilience over time.

When supporting community-based protection mechanisms, protection actors must nevertheless be aware of the limits to this strategy, for it is the role of the authorities to protect the population and individuals. Furthermore, they must be careful to avoid reinforcing inequitable power relations through, for example, excluding segments of the population, or other practices that might be harmful to particular groups within a community.

Whenever feasible, protection actors should thus prefer a longer-term strategy that builds on the capacity of affected populations to organize themselves, and engages the authorities at all levels, to see their rights respected.

¹ See the Humanitarian Accountability Partnership (HAP), <http://www.hapinternational.org>.



11. Protection actors working with affected populations, communities and individuals should inform them about their rights, and the obligations of duty bearers to respect them.

Protection actors should inform the people with, and for whom they work, of their rights and of the obligations of the duty bearers. This is notably the case when addressing particular trends of abuses, and working with various associations, such as those of families of missing persons, or women's groups. This may take time, especially when working with more vulnerable people, who may be less informed of their rights under domestic and international law.



Jean BASTIAN/ICRC

Chapter 2:

OUTLINING THE PROTECTION ARCHITECTURE

Standards and guidelines

- !** 12. Protection actors must determine and adjust their approach based on an understanding of the existing protection architecture. 30
- !** 13. Protection actors must at all times avoid action that undermines the capacity and will of primary duty bearers to fulfil their obligations. 30
- !** 14. Protection actors must not substitute for the role of the authorities when the latter have the requisite capacity and will to assume their responsibilities. 31
- !** 15. Protection actors should include some form of communication with the relevant authorities in their overall approach. 31
- !** 16. All protection actors must specify their roles, protection objectives, institutional priorities and means of action. 32
- !** 17. Protection actors must take into account the various protection roles of political, military, judicial, and economic actors. 33

Outlining the protection architecture

This chapter outlines what can broadly be referred to as the global protection architecture, and how humanitarian and human rights actors doing protection work should relate to it, as well as to each other.

The global protection architecture comprising various actors at national and international level with protection roles and responsibilities, is based on rights and obligations set out in international humanitarian law (IHL), international human rights law (IHRL), and international refugee law. These rights and obligations must be incorporated into domestic legislation, which frequently expands and enhances the rights agreed upon internationally.

While the State bears primary responsibility to protect the people within its jurisdiction (including those beyond its borders), in situations of armed conflict, all parties including armed groups who conduct military operations, are bound by IHL, and thus hold binding legal protection responsibilities for the people within their territory and/or control.

Diverse elements of the State apparatus, such as the police and the courts, are responsible for applying and monitoring domestic laws, and ensuring the protection of the population. In cases where the capacity, or the will, of the authorities to ensure the protection of persons under its jurisdiction is lacking – or worse still, when the authorities themselves are actively perpetrating violations against the population – such protection mechanisms are likely to be inefficient or inadequate. A protection response by other actors is then required to protect those at greatest risk. This can take the form of action by other States. As members of the United Nations, and as parties to the Geneva Conventions, States bear protection duties for persons at risk, even if these persons are outside their jurisdiction. In the Geneva Conventions this is defined as a duty both to respect, and to ensure respect, of the legal standards – thus deliberately keeping the focus on the responsibilities of the primary authorities.

A range of other actors are often involved in a protection response. They include legal, security and humanitarian actors. Some have been mandated to assume a specific protection role, such as country-specific peacekeeping operations with protection mandates. States have also conferred specific protection mandates on a number of international humanitarian and human rights organizations, including the ICRC, OHCHR, UNHCR and UNICEF. Their mandates derive from a variety of sources including international treaties, Statutes of the Red Cross/Red Crescent Movement, and United Nations General Assembly resolutions. Within the protection architecture, these actors bear certain protection responsibilities, while State actors of course remain the main duty bearers. It is therefore essential for humanitarian and human rights actors carrying out protection work to be familiar with the overall global protection architecture and to situate their own particular position within this overall framework, so that their action may be more effective.

The first section of this chapter emphasizes that protection work undertaken by humanitarian and human rights actors must relate to the existing protection architecture, and aim to improve the way it functions – as opposed to replacing it. The second part highlights the importance for each actor to articulate its objectives and intentions clearly with respect to its role in protection, in order to work effectively with others. This in turn should help avoid gaps, unnecessary duplication, or undermining the efforts of other actors, and thus serve the overall objective of creating a more effective protection response.

Relating with the formal duty bearers

! 12. Protection actors must determine and adjust their approach based on an understanding of the existing protection architecture.

Although any actor involved in protection work is responsible for its own actions, its work does not exist in isolation. In a protection crisis, a range of actors have the obligation to respond. They include political actors bearing both primary and secondary responsibilities to seek solutions to resolve the cause of the violence; security actors responsible for ensuring the physical protection of persons at risk; and certain humanitarian and human rights actors formally mandated, and thus obliged to respond to protection needs. Moreover, although not legally mandated, a number of other humanitarian and human rights actors may also respond. Each of these actors – be they political, legal, security, humanitarian or human rights – have distinct and unique protection roles, responsibilities and competencies. Establishing an interface between these diverse actors and efforts is a critical challenge in ensuring effective protection.

In its efforts to meet this challenge, and tailor its approach accordingly, a protection actor needs first to analyse carefully the attitude, capacities and will of the authorities to define its approach vis-à-vis the primary duty bearers and their obligations. This entails an understanding of domestic laws and customs, the institutions in place, as well as prevailing policies and practices.

In the case of authorities that are willing to protect and possess the capacity to do so, the approach is likely to be a proactive and supportive engagement. Other modes of actions, such as persuasion, mobilization, and eventually denunciation or substitution, may be preferred with authorities who, by their acts or by omission, are responsible for the abuse or violation of rights.

! 13. Protection actors must at all times avoid action that undermines the capacity and will of primary duty bearers to fulfil their obligations.

Rather than attempting to replace a weak national protection apparatus, the primary aim of humanitarian and human rights actors doing protection work in armed conflict and other situations of violence is – to the extent feasible – to encourage and persuade the formal authorities to assume their obligations more fully.

Whatever their approach, protection actors must always avoid any action that could undermine or remove responsibility from the legally bound authorities. They must also take care not to hinder or overshadow the role of well functioning national protection agencies, such as ombudsmen or national human rights institutions.



14. Protection actors must not substitute for the role of the authorities when the latter have the requisite capacity and will to assume their responsibilities.

Direct substitution for the role of the authorities can take many forms. It may, for example, include the evacuation of wounded or sick from a battle zone, or setting up an information campaign on the risks of unexploded munitions for IDPs returning to an area that was a former battlefield. Any such action can inadvertently reduce the incentive of authorities to assume these responsibilities themselves. Direct substitution should therefore only occur when protection actors deem that there is no immediate prospect of the authorities assuming their responsibilities, and the gravity of the situation of those at risk demands immediate action.

Activities based on direct substitution traditionally focus more on the at-risk population. They can include measures to reduce their exposure to risk, such as providing temporary identity documents, or measures to mitigate the consequences of exposure by, for example, providing medical services following a violation. In all these cases, such activities must be understood as temporary in nature, undertaken in substitution for the failures of the formal system, and lasting only until the authorities have the requisite means and will to resume their roles.

Ideally, substitution activities should be accompanied by efforts aimed at building or strengthening the capacities of the authorities to resume their responsibilities to protect. This is especially relevant when the authorities show willingness, but lack the capacity to do so. Total substitution should only occur in extreme circumstances. Even then, protection actors should constantly seek through persuasion and advocacy to encourage the formal authorities to better fulfil their obligations and responsibilities to protect people at risk.



15. Protection actors should include some form of communication with the relevant authorities in their overall approach.

Formal or informal communication with the authorities should be included in the work of protection actors. Formal communication usually takes the form of evidence-based analysis and recommendations, submitted bilaterally to the authorities by protection actors (often mandated), calling for improved respect of the law – to which a formal response is expected. Informal communication, on the other hand, is generally less explicit, and can take many forms. It may be conducted through indirect channels: messages conveyed by influential personalities, leaflets which present activities of an organization in a given country, and press releases are some examples. At local level, informal

communication might accompany protection work aiming to help individuals reduce their exposure to threats – usually through assistance or services that empower them to cope better with the consequences of a dysfunctional environment. In all such scenarios, the need for better protection of those at risk, and the responsibility of the primary duty bearer to provide this, should remain part of the central messages.

In some communities, protection actors may decide to work with informal authorities, who may be more representative of the population of concern than the formal authorities. These informal authorities may even provide local safety mechanisms. Communications should also take account of these additional stakeholders.

Even when working in substitution for the formal authorities, maintaining dialogue with the relevant authorities is essential in the interest of transparency. The content of the dialogue will be determined by the causes of the protection shortfalls on the part of the primary duty bearers: a lack of capacity; a lack of will to protect; or deliberate violations perpetrated by the authorities. A protection actor which decides to act in substitution for the authorities without any form of communication with them, and against their will, is unlikely to last very long on the ground.

The choice by some actors not to communicate on protection issues with the host government may be for reasons of security and maintenance of access for delivery of humanitarian relief, particularly when protection work is not their primary activity. In the long run, however, such a choice can give rise to suspicion if the actor starts to show interest in understanding patterns of abuses, without explaining to the authorities both the nature of these concerns and the link with their work. Transparency on the mandate and/or mission statement of each actor is also vital when establishing communication with the authorities.

Only in rare cases is communication with the authorities ill-advised, such as when a protection action is carried out against the will of the authorities, in favour of individuals or communities who would be at greater risk if this action were to be known by the authorities.

Ensuring clarity and transparency of intent

! 16. All protection actors must specify their roles, protection objectives, institutional priorities and means of action.

Cooperation between the diverse humanitarian and human rights actors working on protection issues calls for clarity as to their respective objectives, intended protection roles, and responsibilities that each can realistically be expected to assume in varying circumstances. This transparency greatly facilitates interactions and complementarities, as well as clarifying their relationship with the existing international protection architecture.

For a protection actor with a formal mandate, a mission statement serves to articulate its overall mandate and objectives in a coherent manner. It can outline the specific protection elements on which the actor is authorized and expected

to act, as well as clarify any additional elements to which the actor intends to respond. Mandated actors can be held to account to this mission statement.

For actors who only occasionally engage in protection activities, developing policies and corresponding field guidelines can be another way of specifying their roles and means of action, without having to revise their mission statement.

In any given operational context, all protection actors (mandated or otherwise) should clearly specify their operational intent, priorities, and objectives, sharing them with other protection actors, relevant authorities, affected communities and individuals and other stakeholders concerned as required. Institutional clarity on general objectives and the type of activities to be carried out is also necessary for effective communication with individuals at risk, for example, to obtain their consent to provide testimony, or participate in a workshop or training activity.

Interface with non-humanitarian actors engaged in protection



17. Protection actors must take into account the various protection roles of political, military, judicial, and economic actors.

Actors with responsibilities in other sectors – political, security, legal and economic – may also play important roles in helping to protect people from abuses and violations. Their principles, policies and practices, competencies, and resources are likely to be very different from those of humanitarian and human rights actors. Yet the importance of protecting civilians is often an important reason for the involvement of these actors in a given context, alongside security, political or economical interests.

The scope of the protection work of humanitarian and human rights actors has its limits. Protection actors must therefore take into account the roles, responsibilities and expertise of other actors, when planning and implementing activities. Assessing which of these actors is best positioned to procure a certain type of impact also requires some degree of interaction, and a will to identify and encourage positive synergies.

Humanitarians have long claimed that humanitarian action is no substitute for political action. It often happens that both sets of actors undertake protection activities at the same time, and in a common location. In such circumstances it is critical to safeguard the principles that drive humanitarian action. In particular, the distinction between military and humanitarian actors should be clearly explained, especially to populations at risk and to all authorities concerned. This is especially relevant in situations where military actors are involved in activities other than combat, and where some form of effective cooperation exists, as for example, when the military secure roads leading to distribution centres, or on which humanitarian convoys are travelling. Protection actors need to assess whether engaging with them serves to strengthen their own action, without blurring or merging the respective roles.



Franco PAGETTI/ICRC/VII

Chapter 3:

BUILDING ON THE LEGAL BASE OF PROTECTION

Standards and guidelines

- !** 18. Protection actors must be familiar with the various legal frameworks that are applicable. 37
- !** 19. A protection actor must be consistent and impartial when making reference to, or urging respect for the letter or spirit of relevant law, as applied to various parties to an armed conflict. 39
- !** 20. When protection actors take action to ensure that the authorities (including armed groups) respect their obligations towards the population, their reference to the law must be accurate. Messages and actions must be in accordance with the letter and spirit of the existing and applicable legal frameworks. 40
- !** 21. When relevant regional and domestic law reinforce overall protection, and are in conformity with international law, protection actors should include them in their work. 41
- !** 22. Protection actors must be aware that international law and standards cannot be lowered and must be respected and upheld. In certain cases pragmatism may require a series of progressive steps in order to attain these norms over time. 41

Building on the legal base of protection

This chapter underlines that for humanitarian and human rights actors involved in the field of protection, the capacity to refer to applicable law is often essential. Protection is indeed rooted in the respect for the rights of persons, and the obligations of those in a position of authority, as defined in various instruments of international humanitarian law (IHL), international human rights law (IHRL), and international refugee law, as well as in domestic legislation. To remind the authorities of their obligations, protection actors must first know the applicable laws. This is notably the case when protection actors seek to address the issue of impunity, encouraging the authorities to investigate and prosecute perpetrators of violations or abuses of IHL and IHRL.

The first standard of this chapter is applicable to all actors planning to engage in protection work, irrespective of the intended approach. It aims mainly to ensure that their action does not inadvertently undermine the existing protection afforded to individuals under domestic or international legal norms and standards.

The second and main part of this chapter, as from Standard 19, concerns standards and guidelines applicable to protection actions more specifically designed to impel the authorities to assume their responsibilities.

Knowing the legal framework

! 18. Protection actors must be familiar with the various legal frameworks that are applicable.

There are many international standards (treaties, customary law, soft law) that require the State and other actors to protect individuals or communities in armed conflict and other situations of violence. Some are specific to certain categories of persons, such as refugees, children, women, people with disabilities, detainees, IDPs, migrant workers, persons belonging to national, ethnic, religious or linguistic minorities. Some concern specific situations, such as the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War, and the Regulations to the 1907 Fourth Hague Convention concerning the Laws and Customs of War on Land, or the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Others concern the use of certain weapons such as the 1997 Ottawa Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction, and various Protocols to the 1980 Convention on Certain Conventional Weapons.

While it is understandable that many protection actors may not know, or need to know the details of all sets of laws, they must nevertheless know which legal

framework applies to the context in which they are working. Consequently, understanding the essence of IHL, IHRL, and refugee law (see box below), and being able to understand how they complement each other, is a requirement for all protection staff when planning and implementing protection activities.

Staff working on protection issues must therefore have the necessary skills and knowledge, or receive appropriate training on the essence, logic and basic principles of each body of international law. In addition, protection actors must also be clear as to who falls within the personal, temporal and territorial scope of application of each of these bodies of law.

Universal protection norms are to be found in the sets of laws outlined in the box below.

Essential features of IHL, IHRL and international refugee law

Universal legal norms ensuring the respect for individuals, in particular their protection from the effects of violence and abuse can be found in three bodies of law:

- international humanitarian law (IHL), or the law of armed conflict,
- international human rights law (IHRL), and
- international refugee law.

IHL is the law specifically designed for *armed conflict situations*. It aims to ensure respect for civilians, and those who are not, or no longer, taking direct part in a conflict, and to regulate the means and method of use of force during international and non-international armed conflict. It recognizes the importance of relief and protection activities by the ICRC and other impartial humanitarian organizations.

IHRL imposes on States obligations to respect and protect rights of individuals in their territory or within their jurisdiction. IHRL is applicable in all circumstances with exceptional derogations for a limited set of rights in situations of public emergency. States are furthermore required to give due notification of these derogations.

Both bodies of law comprise a large number of treaties and customary rules that were developed at different points in time. Not all States are parties to all treaties, although all existing States have adhered to the Geneva Conventions.

Customary law is applicable irrespective of whether or not a State has ratified any treaty provision that contains the customary norm.

These treaties and customary law are complemented by numerous internationally recognized standards, some of them adopted by political bodies such as the General Assembly of the United Nations.

A major distinction to be noted between IHL and IHRL is that international human rights law provides rights to the individual to be protected, respected and fulfilled by the State, whereas international humanitarian law binds parties to an armed conflict (be they States or organized armed groups).

National authorities are required to ensure that these sets of laws are fully integrated within domestic legislation and regulations.

International refugee law regulates protection due to persons who find themselves outside the territory of their State, no longer enjoying its protection, and is applicable both in conflict and in peacetime. The 1951 Convention relating to the Status of Refugees is the key legal instrument defining who is a refugee, their rights and the legal obligations of States. While the Convention definition of a refugee is restricted to persons suffering persecution on grounds of race, religion, nationality, political opinion or belonging to a particular social group, other regional instruments and elements of customary law enlarge the definition to persons fleeing conflict or generalized violence.

Referring to the law with consistency and impartiality



19. A protection actor must be consistent and impartial when making reference to, or urging respect for the letter or spirit of relevant law, as applied to various parties to an armed conflict.

Protection actors must not accept, even tacitly, one party breaching the law while condemning another for the same acts. Under IHL all parties to a conflict have obligations, and they should all be reminded of them, particularly if they do not fulfil them.

IHL binds not only States but also organized armed groups, although there might be practical inequalities when it comes to implementation capacities.¹ It is important to distinguish when the legal framework places different obligations on the State than on organized armed groups involved in a conflict, or in other types of violence.

Defending the rights of affected communities or individuals cannot be seen as a partial action favouring one of the parties to the conflict, since rights are universal by nature.

This standard implies that a protection actor should take a comprehensive approach to analysing the effects on the population of the action, or lack of action, of the various perpetrators or parties to the conflict, taking account of their obligations. In light of its analysis the protection actor might still decide to concentrate efforts on a particular group at risk of repeated abuses by one of the parties involved in the violence. In pursuing this choice, it has to ensure that it is not implicitly weakening the protection available to other victims, either by denying them recognition, or by giving a false sense of legitimacy to other parties involved in the violence committing abuses.

¹ The issue as to whether IHRL is binding on non-State armed groups remains under debate. The traditional position is that IHRL creates legal obligations only for State authorities. However, modern trends in human rights doctrine push for recognition that non-State armed groups can also be bound by human rights law. The major questions still open relate to the exact meaning, scope, pertinence and legal implications of the claim that non-State armed groups are bound by IHRL.

Maintaining coherence and accuracy

- !** 20. When protection actors take action to ensure that the authorities (including armed groups) respect their obligations towards the population, their reference to the law must be accurate. Messages and actions must be in accordance with the letter and spirit of the existing and applicable legal frameworks.

Whenever specific action is envisaged to persuade authorities to assume their responsibilities, the protection actor involved should understand the applicable legal framework and know the norms to be quoted. This does not mean that a protection actor has always to expressly base its action on the applicable legal framework. It rather means that if a protection actor chooses to refer to the law and the obligations of the authorities, it must ensure that its references are correct, and aim to invoke the most relevant applicable legal framework. Specific issues, such as the rights of the child, racial discrimination, occupation of territory, conditions of detention in prisons, require more detailed reference to the applicable laws and standards. Accuracy is essential both when referring to a specific case, and when describing a pattern of violations and abuse that have occurred, and the related responsibilities and obligations of the parties concerned.

Coherence and accuracy serve both to reinforce credibility, and help avoid creating confusion or even contradictions when addressing the authorities. When making reference to international law, be it treaty or customary law, efforts should also be made to ensure accuracy and consistency with other protection actors working on the same issue. This helps avoid the risk of confusion and contradiction which can be particularly damaging when several protection actors refer to the same situation with varying and sometimes incompatible wordings, or worse still, give different messages as to what they consider to be the laws and standards that apply. While coherence among the different protection actors will mutually reinforce their action and give greater emphasis to the obligations that the authorities must assume, any incoherence will undermine this goal, and is likely to be seized upon by the authorities in order to discredit the authors.

A certain level of consultation is therefore recommended among protection actors who are addressing the authorities on similar patterns of violations or abuse. This is particularly the case of organizations with an international mandate, or which have developed widely recognized expertise in some branches or aspects of the law, such as the ICRC with respect to international humanitarian law, OHCHR with respect to human rights, or UNHCR with regard to international refugee law.

Using reference to relevant regional and domestic laws



21. When relevant regional and domestic law reinforce overall protection, and are in conformity with international law, protection actors should include them in their work.

Domestic laws, whether written or customary, often transpose or complement international laws, thereby reinforcing the overall protection of people against abuses or violations. They are usually more familiar to the population and authorities alike, and it is therefore important to take them into account when seeking to persuade the authorities to assume their responsibilities. They can, however, be partially or even totally in contradiction with international law, such as treaties ratified by the State, or customary international law, or with internationally recognized standards. Protection actors should therefore be aware of relevant domestic and customary laws, identifying those which can serve to support their arguments, while advising on changes to domestic laws that fall short of international law and standards. Pending such changes, protection actors should nevertheless be prepared to point out that domestic law cannot be used as an excuse for non-compliance with international obligations.

Domestic law and traditions are essential elements of an environment that can foster or, on the contrary, reduce the likelihood of abuses in a given society. When addressing local authorities and communities, protection actors may seek to draw parallels between these law and traditions and IHL and IHRL. This can serve to emphasize the universal relevance of the latter.

Applicable regional laws – be it treaties or other legal standards – can be another valuable source in discussions with national authorities. Protection actors are therefore well advised to invest energy in assessing those relevant to their work. This often means recruiting or contracting national staff having an understanding of the legal framework at national and regional level.

Upholding existing legal standards



22. Protection actors must be aware that international law and standards cannot be lowered and must be respected and upheld. In certain cases pragmatism may require a series of progressive steps in order to attain these norms over time.

Protection actors must take care, in their actions and relationship with the parties to an armed conflict, or those involved in another situation of violence, to avoid creating the impression that international law and standards can be lowered according to existing regional standards, domestic or local laws and traditions. The norms embodied in international law and standards cannot be adapted or adjusted according to the domestic context.

This does not preclude taking a pragmatic approach with the authorities by suggesting realistic changes in law and policy that can improve respect for

the affected population and persons. A pragmatic approach to convincing the authorities may involve providing support to acquire the necessary technical, financial and other means needed to fulfil their international obligations. It can take time, even several years, to implement the necessary legislative changes, and put in place adequate control mechanisms. Meanwhile, the support provided should not unintentionally provide the authorities with reasons or excuses not to comply with these obligations.

Being pragmatic can also mean making reference to soft law standards and suggesting policy adaptations that can in fact improve respect for the affected population and persons. Protection actors can promote existing internationally recognized standards (soft law), while urging the authorities to accept higher norms and standards than those contained in binding international law. A good example is that of detention-related issues for which the United Nations Standard Minimum Rules for the Treatment of Prisoners are widely considered as the reference for detention conditions, or the Guiding Principles on Internal Displacement which are recognized as an important international framework for the protection of IDPs. Soft law standards are a useful reference, but they do not give rise to enforceable rights unless integrated into domestic law. Protection actors must, whenever relevant, convince the authorities as to the relevance of these standards to help them better fulfil their duties in the interest of the population and persons affected.



James NACHTWEY/ICRC/VI

Chapter 4:

PROMOTING COMPLEMENTARITY

Standards and guidelines

- !** 23. Protection actors must take account of the roles, activities and capacities of others, avoiding unnecessary duplication and other potentially negative consequences, while endeavouring to build synergies. 49
- !** 24. Protection actors must avoid compromising the efforts of those among them who choose to subscribe to the principles of independence and neutrality. 50
- !** 25. Protection actors should seek to share their analyses in order to contribute to a better understanding of protection issues and their impact on various populations at risk. 50
- !** 26. Protection actors must encourage the involvement of other protection actors with the requisite competencies and capacity where important, unmet protection needs are suspected. 51
- !** 27. Protection actors should map critical services that exist in their area of operations, making this information available when relevant and necessary, and proactively facilitating access to such services in emergency situations. 51
- !** 28. When a protection actor learns of serious abuse or violations of international humanitarian or human rights law, and it lacks the capacity or the requisite mandate to take action, it should alert other organizations which may have this capacity or mandate. 52

Promoting complementarity

This chapter is concerned with managing effective interaction among the increasing and diverse humanitarian and human rights actors doing protection work in armed conflict and other situations of violence. It recognizes existing capacities, and acknowledges the varying approaches of protection actors to their work, and to complementing that of others. Its aim is to establish some minimum standards on complementarity, but by no means to propose a uniform approach to protection work.

Enhanced synergies among protection activities of various humanitarian and human rights protection actors can help optimize the benefits for the populations at risk. Seeking such synergies can also serve to minimize gaps, potential overlaps and duplication, and avoid situations where the activities of one actor disrupt or undermine those of another. However, enhancing synergies should never jeopardize the character of any of the protection actors involved. It requires an awareness of others, taking care to respect and maintain distinctive characteristics, to preserve varying identities and principles, and to avoid blurring the individual responsibilities of each protection actor for the safety of the populations, and the use of information collected.

As illustrated below, complementary action can take several forms.

Forms of complementary action

- **Co-existence**
When active cooperation among various actors is neither appropriate nor feasible, interactions focus on minimizing competition and conflict, to enable the actors to work in the same geographical area, with the same population, or on the same issues, with minimum mutual disruption.
- **Coordination**
Dialogue and interaction among various actors serve to preserve and promote distinct characteristics or principles, to avoid competition, to minimize inconsistency, and when appropriate, to pursue common goals. Coordination is a shared responsibility, facilitated by liaison and common training.
- **Cooperation or collaboration**
Joint work among various actors for a common purpose or benefit may include joint analysis and action. It does not necessarily signify common activities, nor any merger of identities or characteristics, but rather some form of working together to achieve a common goal.
- **Contractual partnership**
A more formal and legally constraining form of cooperation usually takes the form of a contract between organizations, which agree to contribute property, knowledge or activities to a given task. The contract defines the legal obligations and expectations of each partner, and often covers issues such as the transfer of financial resources and the secondment of personnel.¹

¹ Adapted from the IASC Reference paper *Civil-military Relationship in Complex Emergencies*, Geneva, 2004.

Establishing effective complementarity among the wide range of humanitarian and human rights actors doing protection work is rarely easy. While they share similar objectives with respect to protection – seeking to obtain “full respect for the rights of the individual”² – they also have varying identities, mandates, priorities, approaches and activities that may impede working closely with others.

Organizations that subscribe to the principles of neutrality and independence as a means to gain access to all communities and actors in armed conflict and other situations of violence, will be especially concerned to maintain their distinct identities. This constraint can limit the degree to which they are able to engage in formal, sector-wide coordination structures, such as the Protection Cluster. However, it does not limit their ability to coordinate on specific issues, such as tracing unaccompanied minors, or establishing lists of missing persons following a crisis that caused flight.

Other characteristics can affect interaction: actors may be faith-based, secular, national, or international; their mandates may be rooted in IHL, IHRL or international refugee law; their priorities (refugees, children, IDPs, etc.), and geographical interests can vary. These various factors influence the interest and ability of each protection actor to coordinate with others, and complicate the task of finding common approaches and working methods. Disparities in capacity, resources, or even, distance between locations can present additional challenges to complementary action.

Such differences are, however, often the very reason why complementary action is needed. The multi-faceted nature of crises typically demands a variety of solutions. The multiplicity of humanitarian and human rights protection actors and their diversity of approaches is thus an asset. Because protection actors work in different geographical locations and with different portions of the at-risk population, their combined efforts can increase the scale and impact of the response.

Cultural, religious, ethnic and linguistic diversity means that local organizations may, in some circumstances, be better placed to obtain results. In others, international actors may hold more sway.

To achieve better results through increased consistency and coherence among diverse protection activities, given the disparity of tactics or modes of actions they may use in their respective environments, demands a conscious effort aimed at more effective interface. One example, is that of a confidential dialogue to persuade primary duty bearers to fulfil their protection responsibilities that can sometimes be reinforced by public reports on the humanitarian consequences of their shortfalls. In other instances, a range of different actors raising similar concerns, or taking similar action simultaneously, can create the same multiplying effect.

Thematic collaboration among selected actors is frequent, such as interagency cooperation on disarmament, demobilization and reintegration (DDR). Protection actors may also decide to participate, or not, in more general coordination structures such as the Protection Cluster, or its working groups, such as the one on gender-based violence, or on the rule of law and justice.

The actual form of complementarity to be adopted will depend on an assessment by the protection actor of the most effective response to a given context or protection need, as well as the most appropriate form of interaction. The ICRC, for example,

² See definition of protection in Introduction.

with its concern for maintaining neutral and independent humanitarian action, may give preference to liaising on a bilateral rather than collective basis, in the interest of preserving its confidential dialogue with arms carriers and authorities.

Complementarity of action among protection actors



23. Protection actors must take account of the roles, activities and capacities of others, avoiding unnecessary duplication and other potentially negative consequences, while endeavouring to build synergies.

As outlined in Chapter 2 (on the protection architecture), it is important for actors involved in protection activities to articulate and communicate their roles so that others can understand their intentions and their work. Liaison with others working in the same geographical or thematic areas will help to ensure that priority needs are addressed, and that unnecessary overlaps do not occur. At an operational level, protection actors should share information regarding their general protection strategy and their target areas and populations, so that these elements can be incorporated into the analysis and planning of other actors. This can be done through existing multilateral coordination mechanisms (e.g. the Protection Cluster), through bilateral contacts, or even through E-newsletters or briefings.

It is especially helpful, when planning or undertaking activities in a new context or with a new population, for protection actors to consult with those already operating there, in order to identify potential gaps in the response. This will help to avoid concentrating response efforts in specific geographical areas, or on issues that are already adequately addressed, unless there is a clear added value, or the current response is judged to be insufficient in scale or quality. Assessments should be undertaken to clearly identify where the greatest needs exist, in order to determine where actors with specific expertise should focus their efforts.

As noted in an earlier chapter (Standard 13), while acting in accordance with its mandate or mission statement, a protection actor must also ensure that its actions do not undermine the capacity of the authorities to fulfil their protection responsibilities. If the authorities fall short in their protection duties, this may be due to inadequate capacity or lack of will. If it is a question of capacity rather than will, providing them with support, as opposed to pure substitution, may be the more constructive approach on the part of the protection actor. Where authorities have the means to respond, but are unwilling to do so, it is essential to avoid undermining efforts by other protection actors aimed at encouraging the authorities to respond more comprehensively. For example, if several actors have taken a collective, principled decision not to substitute for authorities who have the means to respond, any decision by another protection actor to do so must be carefully considered. In all events, a protection actor should proactively advise other actors likely to be affected by its actions.

Also important to effective complementarity is the capacity to deliver on commitments made. Protection actors should ensure that they possess the necessary capacity, skills and resources to follow up on their intended roles

or activities, and should be transparent about this capacity, and its estimated duration (see Chapter 6). If shortfalls occur, or they face an unanticipated withdrawal, the protection actor should inform others, and efforts should be made to ensure an effective handover.

Complementarity of principles among protection actors

! 24. Protection actors must avoid compromising the efforts of those among them who choose to subscribe to the principles of independence and neutrality.

While humanity, impartiality and non-discrimination remain central to all protection work, some protection actors rely on the additional principles of neutrality and independence to gain access to and proximity with people at risk in armed conflict and other situations of violence. Adherence to these principles is a method of working; it is also perceived as a means of facilitating the engagement in protection activities of all parties to a given conflict, and of all portions of the affected population.

Actors which decide not to share, or which cannot implement these additional principles, should acknowledge the commitment of those which seek to do so. In particular, actors which are not, or are not perceived to be neutral in a crisis, through their actions or associations, should be careful not to publicly implicate others in their actions. They should also be aware that actors adhering to the principles of independence and neutrality may be required to limit the extent of their coordination or complementary action with others, in order to safeguard their commitment, both in real and perceived terms, to these principles.

Complementarity of analyses

! 25. Protection actors should seek to share their analyses in order to contribute to a better understanding of protection issues and their impact on various populations at risk.

Analysis is critical to an effective response. A good understanding of the environment, the changing trends and existing protection needs can help reduce gaps or unnecessary duplication, and anticipate potential further needs of the affected populations.

The diversity of humanitarian and human rights actors doing protection work helps increase this understanding, and contribute to more comprehensive responses. The varying focus on diverse geographical areas, on issues such as gender-based violence, tracing, judicial reform, or on specific portions of the affected populations, brings diverse perspectives and thus different approaches to an analysis. Sharing this diversity helps increase the overall understanding of a given context.

The contextual analysis should examine the environment, pattern of violations, perpetrators, duty bearers and their capacity and willingness to protect, as

well as the impact on the affected populations. Due attention also needs to be given to age, gender, and other relevant features that might increase people's vulnerability to threats within their environment. This information should be made available with appropriate levels of detail, whilst ensuring respect for informed consent and confidentiality. To maintain this confidentiality, some actors may limit their information-sharing to general protection concerns.

Sharing information and analyses does not presuppose a shared perspective on protection issues. Nor does it mean that all analyses should be undertaken jointly. Respective organizational mandates, priorities and approaches – including the need for independent and confidential action – can in certain cases make joint assessment and analysis inappropriate. Where possible, however, and particularly when common purposes and approaches exist, interagency analysis and assessment might be given priority in order to reduce duplication. Drawing upon existing analyses and assessments is often also useful, provided they are relevant and of good quality.

Mobilizing other protection actors

! 26. Protection actors must encourage the involvement of other protection actors with the requisite competencies and capacity where important, unmet protection needs are suspected.

Encouraging others to respond will help promote a more comprehensive response for those at risk. In terms of the formal protection architecture, the first course of action is normally to encourage the primary duty bearers to comply with their responsibilities. But in situations where the authorities are failing, humanitarian and human rights actors may be required to help address the most urgent protection needs. If important gaps persist, they may also need to mobilize others with the requisite expertise and capacity to address critical, unmet protection needs. This is true at both the institutional level, such as for the development of legislative norms or policy, and at the operational level. Encouraging action by others does not imply directing their response, but rather sharing information and analysis of important, unmet needs that have been identified.

Providing information on protection services and facilitating referral in emergency situations

! 27. Protection actors should map critical services that exist in their area of operations, making this information available when relevant and necessary, and proactively facilitating access to such services in emergency situations.

The availability of information on available services and how to access them is often critical for the protection of populations at risk. In situations that are not judged to be acute emergencies, protection staff should be able to provide information on relevant services available to those in need, including tracing services for missing people, documentation services for those lacking essential

identity documents, or legal services for those in need of legal aid. Ideally, such information should be given by protection actors after due assessment of the quality of these various services, and their conformity with professional protection standards.

In more acute emergency situations, protection actors are also responsible for proactively facilitating access to emergency services, wherever feasible, for those in acute need. In the aftermath of sexual assault, for example, access to emergency contraception and post-exposure prophylaxis is critical. Rapid access to services may also be essential for others in situations of vulnerability, such as unaccompanied minors, elderly persons, or those with disabilities. In such situations, rapid and accurate information, and assistance with access to critical care and essential services can be vital for survival, preventing serious medical consequences, or protecting individuals in situations of extreme vulnerability from the threat of severe harm or exploitation.

Facilitating referral in these extreme cases may also involve ensuring that the person can physically reach and have access to the necessary services. At a minimum, it requires providing contact information on competent and available services. Protection actors should therefore compile this information with a view to its rapid transmission when required. Other referral actions include calling emergency services, transporting the person(s), and providing the financial means required to access services. The informed consent of the person(s) at risk should be obtained (see Chapter 5). In circumstances where this is not possible, owing to the age or incapacity of the persons, a decision on referral should be taken on the basis of their best interest.

The act of facilitating referrals does not imply a responsibility to ensure access, but rather to take all appropriate and feasible steps in order to facilitate this access, within the capacity and means of the actor in question. There are residual implications in any emergency referral such as financial implications, need for carers, return transportation, cost of medication, etc., but these should not prevent immediate action in a critical situation. Adequate follow-up should also be undertaken after the emergency, according to the actor's competencies and capacities.

Responding to violations



28. When a protection actor learns of serious abuse or violations of international humanitarian or human rights law, and it lacks the capacity or the requisite mandate to take action, it should alert other organizations which may have this capacity or mandate.

Protection actors have a duty to take action when they learn of serious violations of international humanitarian or human rights law. They may directly witness the violations, or observe the consequences suffered by the affected populations, or they may receive information from a third party. In all events, taking such action does not denote a shift in responsibility from the authorities to protection actors. It is the seriousness and repetition of the violations that requires whoever learns of their occurrence to ensure that action is taken. The

type of action will depend on the circumstances. If violations have occurred in the past, action must be taken to prevent any recurrence, to reduce the consequences for affected populations and ensure accountability. For current or imminent violations, action must aim at stopping or preventing them, and ensuring accountability.

If the protection actor lacks the capacity or the means to respond to the violation, or is unwilling to do so, it should inform other actors having the requisite capacity and expertise. This duty to inform should always apply, except when non-disclosure is judged to be in the best interest of the affected persons or witnesses, or the security of staff. For some protection actors, issues of confidentiality may mean that sharing detailed information may not be possible.

Protection actors reporting a protection concern should provide sufficient information to allow others to act. Clear procedures on how to do so should be established by each protection actor. Any transmission of information should abide by the standards established in the following chapter on the management of sensitive protection information.



Ron HAVIV/ICRC/II

Chapter 5:

MANAGING SENSITIVE PROTECTION INFORMATION

Standards and guidelines

- !** 29. Protection actors must only collect information on abuses and violations when necessary for the design or implementation of protection activities. It may not be used for other purposes without additional consent. 58
- !** 30. Systematic information collection, particularly from individuals affected by abuses and violations, must only be carried out by organizations with the capacity and skills, information management systems and necessary protocols in place. 58
- !** 31. Protection actors must collect and handle information containing personal details in accordance with the rules and principles of IHL, IHRL, and relevant national laws on individual data protection. 59
- !** 32. Protection actors seeking protection information bear the responsibility to assess threats to the persons providing information, and to take necessary measures to avoid negative consequences for those from whom they are seeking information. 59
- !** 33. Protection actors must determine the scope, level of precision and depth of detail of the information collection process, in relation to the intended use of the information collected. 60
- !** 34. Protection actors should systematically review the information collected in order to confirm that it is reliable, accurate, and updated. 60
- !** 35. Protection actors should be explicit as to the level of reliability and accuracy of information they use or share. 61
- !** 36. Protection actors must gather and subsequently process protection information in an objective and impartial manner, to avoid discrimination. They must identify and minimize bias that may affect information collection. 61
- !** 37. Security safeguards appropriate to the sensitivity of the information must be in place prior to any collection of information, to ensure protection from loss or theft, unauthorized access, disclosure, copying, use or modification, in any format in which it is kept. 62
- !** 38. Protection actors must undertake an analysis of the associated risks for the interviewees and the interviewer before conducting interviews. 63
- !** 39. Protection actors must only collect personal information with the informed consent of the person concerned, who is made aware of the purpose of the collection. Unless specific consent to do so has been obtained, personal information must not be disclosed or transferred for purposes other than those for which they were originally collected, and for which the consent was given. 64
- !** 40. Protection actors should, to the degree possible, keep victims or communities having transmitted information on abuses and violations, informed of the action they have taken on their behalf – and of the ensuing results. Protection actors using information provided by individuals should remain alert to any negative repercussions on the individuals or communities concerned, owing to the actions they have taken, and take measures to mitigate these repercussions. 65
- !** 41. Protection actors must avoid, to the extent possible, duplication of information collection efforts, in order to avoid unnecessary burdens and risks for victims, witnesses and communities. 66
- !** 42. Whenever information is to be shared, its interoperability should be taken into account in planning the information collection. 66
- !** 43. When handling confidential and sensitive information on abuses and violations, protection actors should endeavour, when relevant and feasible, to share aggregated data on the trends they observed. 67
- !** 44. Protection actors should establish formal procedures on the information handling process, from collection to exchange and archiving or destruction. 67

Managing sensitive protection information

This chapter deals with the collection and handling of protection information relating to individuals or specific events. It concerns protection actors which conduct interviews with witnesses or victims on a regular or on ad hoc basis, as well as those which receive or use such information collected by others. While not a full-fledged manual, this chapter outlines some of the key principles and standards that should be adhered to when collecting or handling information.

Protection actors working with aggregated information, such as trend analysis, face less challenges in handling sensitive information, and may feel less concerned by the standards and guidelines of this chapter. They should nevertheless be aware of the constraints of managing data on individuals and events, in order to understand how the information they are handling has been obtained.

In situations of armed conflict and other situations of violence, conducting individual interviews can put people at risk not only because of the sensitive nature of the information collected, but because mere participation in the process can cause these people to be stigmatized or targeted. The risks they incur can range from physical violence to social marginalization, and are often unknown to the individual soliciting the information, and sometimes also by the person providing it.

Purposes of information collection

Protection work requires the collection of information linked to individuals or incidents for various purposes, including as means to:

- monitor and analyse violations of IHL, HRL and other norms protecting the individual, in order to elaborate public or confidential reports;
- follow the situation of vulnerable individuals or groups over time;
- trace individuals, provide means of re-establishing family links, organize family reunification, or identify human remains;
- keep track of activities that were carried out in favour of affected population, communities and individuals (referrals, assistance to populations or individuals, etc);
- identify trends and substantiate reporting;
- confirm a particular legal status and determine entitlement to rights, such as those based on the status of refugees or stateless persons.

The protection actor seeking the information bears responsibility for managing the risks associated with the process. This chapter addresses critical issues, such as humanitarian intent, non-discrimination, and informed consent. It provides standards

and guidelines to ensure that the collection of potentially sensitive protection information, and its subsequent handling, is undertaken in a professional manner. It urges actors involved in these processes to treat the witnesses and victims of abuses and violations equitably, with dignity, and to protect their interests. Such principles are particularly relevant when dealing with vulnerable populations, such as separated children, detainees, refugees or IDPs, who are often unable to track the utilization of the information they have provided.

Finally, the chapter underlines the need for caution and professionalism, ensuring that staff involved in documenting incidents of abuses and violations, or in handling sensitive protection information are well trained. Although the need for caution is a central message, it should in no way be interpreted as a call to avoid sharing information. On the contrary, when in the best interest of the individuals and communities concerned, it is important that protection information should be shared, as appropriate, with the authorities, or other protection actors, and service providers.

Respecting the basic principles

! 29. Protection actors must only collect information on abuses and violations when necessary for the design or implementation of protection activities. It may not be used for other purposes without additional consent.

The collection of information must aim to enhance the safety and integrity of the persons and/or the population involved. In no circumstances should it be intentionally used to promote non-humanitarian agendas, such as political or partisan goals, nor to distort the facts, nor mislead or cause harm to affected or at-risk populations. Individuals providing the information should not be misled as to the purpose for which it is being collected. Accuracy and transparency in the process of information collection is crucial. Consent to provide information must never be obtained through deception.

! 30. Systematic information collection, particularly from individuals affected by abuses and violations, must only be carried out by organizations with the capacity and skills, information management systems and necessary protocols in place.

Not all organizations need to collect information on abuses and violations. As there is a very high risk of causing harm if sensitive information is mismanaged, such information should not be collected unless its use is clear, and the depth and specificity required is defined. Unless a protection actor requires detailed protection information to conduct its activities, and has the capacity to ensure the implementation of the standards contained in this chapter, it should abstain from collecting any sensitive protection information on individuals or incidents related to abuses or violations. Those who may confront sensitive situations should, however, be provided with information on appropriate service providers and other protection actors to whom they can refer people, in cases where affected communities or individuals approach staff for advice and support.



31. Protection actors must collect and handle information containing personal details in accordance with the rules and principles of IHL, IHRL, and relevant national laws on individual data protection.

The protection of personal data is based on the right to privacy recognized in most international human rights treaties.

Domestic law may also have provisions for the protection of information, in particular personal data, which go beyond the standards in this document. These may include DNA, ante- and post-mortem data, and medical data. It is important to identify and respect such laws, provided they are in conformity with international laws and standards and are aimed at protecting privacy.

Domestic law may also contain provisions imposing the disclosure of confidential information with a view to protecting public order and the rule of law, for example in criminal cases. In such cases, the protection actor must adopt clear internal guidelines defining the type of data to be collected so as to avoid additional risks for both the victim and the actor involved.

Without adequate awareness of the existing legal framework, actors collecting information may be prevented from doing so, or face legal action by the State or the individuals concerned.



32. Protection actors seeking protection information bear the responsibility to assess threats to the persons providing information, and to take necessary measures to avoid negative consequences for those from whom they are seeking information.

Protection information is often extremely sensitive and may generate risks for the victims, witnesses, their families, and staff collecting it. The choice to participate rests with the provider of the information. However, the burden of assessing and managing, to the extent possible, the risks associated with the process resides with the seeker of the information, who is obliged to ensure that the choice to participate is made voluntarily, in awareness of the potential risks. It also requires that the protection actor regularly reviews the risks associated with transmitting, releasing or even storing protection information that could allow victims or witnesses to be identified. Such regular reviews need to be carried out by any protection actor intending to transmit or release protection information, even when the informed consent (see Standard 39) was obtained from the victim and/or the witness at the time when the information was collected, as circumstances may have changed in the meantime.

This also applies when a protection actor subcontracts information collection to others. It remains the responsibility of the protection actor to ensure that its partners apply the same standards and guidelines on the professional handling of information that concerns individuals or incidents.

Ensuring relevance and quality

! 33. Protection actors must determine the scope, level of precision and depth of detail of the information collection process, in relation to the intended use of the information collected.

Establishing clear objectives is central to the information collection process. Problems often arise from inadequate definition of these objectives, and/or poor transmission to those involved. The purpose of the collection process should support a specific operational objective, and be tailored to this objective as closely as possible. Operationally, it is critical that everyone involved in managing the information, from the field monitor interviewing witnesses and victims, to the project manager, has a common understanding of this objective.

Clear objectives are also required to set the scope of the information collection. This can be narrow or broad, according to what is relevant to achieving the stated objectives. An example of a narrow scope could be children, in a specific geographical area, separated from their families in the last 12 months.

The clarity of objectives, precise definition of the scope of the information to be collected, and adequate awareness of these elements by those involved, all contribute to clarifying the core information requirements. Without this clarity, field staff may omit valuable information because they do not realize its importance, or conversely collect sensitive information that is not relevant to the defined objectives, and will therefore not be used. Information that is not necessary for the purpose identified prior to, or at the time of collection, should simply not be collected, in order to avoid unnecessary risks or false expectations on the part of those providing the information.

Finally, the protection actor should also define the level of reliability and accuracy of information it aims to collect. When fact-finding in relation to specific violations, it should decide beforehand the level of accuracy required for its action, such as public advocacy reports, or bilateral representations.

! 34. Protection actors should systematically review the information collected in order to confirm that it is reliable, accurate, and updated.

Quality protection information is the product of a well-functioning information system, which regulates its flow, and attributes tasks and responsibilities at each stage: collection, processing and analysis. Such a system ensures that information is collected systematically and methodically, while ensuring a consistent and reliable level of quality.

Ideally, the information collected should be first-hand, detailed, corroborated by different sources, and regularly updated. In practice, however, the information cycle can often be somewhat informal and haphazard, with the result that information is not managed or checked systematically. Furthermore, misunderstandings can easily arise between those collecting and those analysing the information.

In order to manage such risks, clear responsibility needs to be assigned to evaluate the information collected, and to take action when the quality is found to be inadequate. This may include re-designing information intake formats, clarifying terms in glossaries, or providing more general coaching and training on fact-finding, interviewing and information collection.

When receiving information from secondary sources, the responsibility to verify its accuracy resides with the agency intending to use it.



35. Protection actors should be explicit as to the level of reliability and accuracy of information they use or share.

Protection actors should take measures to minimize the risk of presenting a false or incomplete image of the issues they intend to address.

In a crisis situation, a protection actor may feel under pressure to communicate findings that are not fully verified. When this happens, it is important to avoid hastily extrapolating firm conclusions, or being overly affirmative.

On the other hand, a lack of fully verified information is no reason for inaction when there are compelling reasons to suspect that violations have been committed, and might be repeated.

Any external report should mention the reliability of its contents in general terms. Incidents that are not yet fully established can be included, as long as the level of reliability is clearly disclosed. Transparency with respect to reliability does not necessarily mean total transparency as to how the information has been collected. Any protection actor needs to balance this transparency with the need to guarantee the safety and privacy of persons providing potentially sensitive information.



36. Protection actors must gather and subsequently process protection information in an objective and impartial manner, to avoid discrimination. They must identify and minimize bias that may affect information collection.

When it comes to collecting and handling information, the notion of discrimination is closely related to that of bias. Both can distort the collection and the analysis of information.

Bias can be defined as any systematic distortion of information, whether intentional or not. Understanding the potential for bias in all information collection efforts is the starting point for identifying its sources and minimizing its effect. Bias can stem from both the information collector and the provider, and may be due to a range of factors. They include limited coverage, when the collector is unable to access all sources of information, or obtain a representative sample; communication barriers between the interviewer and informant, such as the reluctance of a female interviewee to share information with a male interviewer; and prejudice on the part of the interviewer. Bias can also arise from distortions on the part of the information provider, who may be unable to

recall events, or give false or exaggerated testimony because of social pressure, political or ideological convictions, or attempts to influence the provision of aid.

Bias can be minimized by designing information collection procedures that ensure representative sampling, and by raising awareness during the training and coaching of field staff.

Non-discrimination is an essential principle of all protection activities – the collection of information being no exception. Criteria such as age, gender or geographic location, may determine the scope of the information collection. These criteria should be based on the purpose of the information collection (such as registering unaccompanied minors in an IDP camp), and should be transparent. Once the criteria are determined, the process of information collection must thereafter be equitable and fair. The collector of information must be aware of the possible exclusion of some participants owing to language ability, political affiliation, educational level, or other factors, and avoid discriminating – unintentionally or otherwise – in the selection process. Such discrimination could hamper an accurate understanding of the situation, and distort the resultant protection response.



37. Security safeguards appropriate to the sensitivity of the information must be in place prior to any collection of information, to ensure protection from loss or theft, unauthorized access, disclosure, copying, use or modification, in any format in which it is kept.

Safeguards are required for the security of both paper records and of digital information. The nature of the safeguards varies according to the sensitivity of the information, with more sensitive information obviously requiring a higher level of security. As a rule, protection information should only be collected and processed once appropriate safeguards are in place to ensure that all sensitive information can be kept confidential.

An organization working with sensitive protection information should put in place monitoring mechanisms and take corrective measures in the case of any breach of these procedures. A clear definition of tasks and responsibilities among staff, notably defining the supervision of the data handling and right of individual access to sensitive data, increases accountability and therefore the security of the whole process.

Before deciding to collect and/or store sensitive information in a given context, the protection actor must also evaluate any specific contextual factors that could affect the feasibility of ensuring the confidentiality of information collected. For example, it should be clear if an organization might be forced to hand over information to the police or judiciary. An assessment of relevant national legislation on information protection and access to information may be necessary. Hence it is important to establish if the protection actor is in a position to refuse handing certain data to the authorities if requested to do so. In the absence of guaranteed confidentiality of sensitive information, which would put the provider of the information at risk if accessed by unauthorized parties, such information should not be collected.

Preparing interviews and ensuring informed consent and privacy



38. Protection actors must undertake an analysis of the associated risks for the interviewees and the interviewer before conducting interviews.

Reference has already been made (see Standard 32) to the importance of assessing potential risks involved in providing information. This is particularly relevant to conducting interviews and to the subsequent storage and use of the information collected.

Besides containing sensitive information on the nature of violations affecting individuals and groups, and the identity of the perpetrators, protection information may also reveal operational details of military operations that could be of value to opposing forces. The very act of collecting information on abuses can endanger individuals or groups, especially if they are singled out in the process. Risks also arise from the transmission of information to a potentially malevolent authority, notably through advocacy reports or reports on individual protection cases.

The victims, their families, or the actor collecting information face many types of risks as sources of this information. They include: the risk of retaliation by the perpetrators against victims, the source of information or the information collector; the risk that disclosure of information may cause stigmatization of the victim; or the risk that the protection actor may be obliged to disclose information to an authority, as for instance for use in court proceedings, for which informed consent was not obtained from the interviewee.

In analysing these risks it is necessary to determine what constitutes particularly sensitive information in a given context; possible threats to information management including theft and leakage; and whether sensitive information could be seized by the authority.

Having identified potential risks, procedural mechanisms need to be put in place to minimize adverse outcomes. These might include methods of transmitting information that conceal the sources of information or identity of victims, or deferring interviews with sources and witnesses until they are no longer within reach of those who might seek to persecute them. If it is estimated that the risks are too high, and if the protection actor lacks adequate mechanisms to manage them, it must consider forgoing the intended collection of protection information, and directing victims and witnesses to other protection actors who are better equipped to handle the information.



39. Protection actors must only collect personal information with the informed consent of the person concerned, who is made aware of the purpose of the collection. Unless specific consent to do so has been obtained, personal information must not be disclosed or transferred for purposes other than those for which they were originally collected, and for which the consent was given.

Respect for the individual implies that each person is regarded as autonomous, independent and free to make his or her own choices. Before providing personal information about themselves or other individuals, or on specific incidents, a person must be given the opportunity to make an informed decision about whether or not to participate in an information collection process.

The person concerned should be informed as to when the information provided may be transmitted to the authorities or a third party. This party should be named, the purpose of the transmission should be explained, and the associated risks explored, before the person is asked to give his or her consent to the transmission.

The notion of informed consent

Informed implies the information provider should receive explanations as to the following in simple, jargon-free language:

- the identity of the information collector, along with a brief explanation of the mandate of the organization;
- the purpose of the information collection, its scope and method, and intended use of the information collected (to present cases, for statistical purposes, etc.);
- details of the potential risks and benefits of participation in the process;
- the meaning of confidentiality, and how it applies, with special emphasis on the fact that the person interviewed can request any information that may reveal his/her identity to be kept confidential;
- contact information so that the participant can reach the information gatherer;
- reminders that the participant can cease participating at any time, and request that his or her information be destroyed.

Consent signifies the approval by the participant for the information to be used as explained. Consent is often given with limitations. It must therefore be specified whether the whole statement can be used, including the identity of the participant, or whether the information may be used on condition that the identity of the participants is kept confidential. The participant may deem some parts of their testimony to be confidential, and others not: this should also be clarified and recorded. For example, recent violations occurring in an IDP camp, where the perpetrators are still in the vicinity, may be judged to be confidential, whereas previous violations relating to the cause of displacement may not.

Informed consent should always be obtained in ways that are culturally appropriate and relevant, and the collection of protection information should not take place until field staff have been trained to ensure that the notion of informed consent is understood and respected.

Details of the consent given and the level of confidentiality required should accompany the information throughout the information process, like a baggage tag on a suitcase. Where consent has not been requested, or has not been recorded, the information must not be transmitted to a third party. In such circumstances, it would be necessary to revisit the participant, in order to request and obtain consent before transmitting the information.

Further consent is required whenever personal information is handed over to another protection actor, or to the authorities, especially when the information is likely to be used for purposes other than those for which it was originally collected. Exceptions apply when the protection of vital interests of the person concerned, or of others, are at stake, or when consent cannot be obtained and transmission is clearly in the best interest of the person concerned. This can happen, for example, when tracing missing persons, who simply cannot be reached for their consent. Others, such as children or patients undergoing psychiatric treatment, may not be in a position to anticipate or understand the risks entailed in providing information. Decisions should then be made based on an assessment of their best interests, in consultation with relatives, caregivers or others close to them.

Having obtained the necessary informed consent does not remove the actor's responsibility to assess the risk, for an individual or a given group, of collecting, storing or using sensitive information. If the risk is seen as too high, information should not be used, even if informed consent was obtained.



40. Protection actors should, to the degree possible, keep victims or communities having transmitted information on abuses and violations, informed of the action they have taken on their behalf – and of the ensuing results. Protection actors using information provided by individuals should remain alert to any negative repercussions on the individuals or communities concerned, owing to the actions they have taken, and take measures to mitigate these repercussions.

Individuals who have provided information on abuses and violations usually expect that the protection actor gathering the information will act on their behalf. In addition to providing an update on the process and on progress achieved, return visits by the protection actor after the information collection process can demonstrate respect for those having taken part. It also increases their confidence, and can sometimes yield further disclosures.

Such visits also allow for enquiries into unforeseen negative repercussions for the individuals or communities, following the actions taken on their behalf. Whenever such consequences occur, the protection actor should do its utmost to take corrective action. It should also incorporate this sequel into subsequent

risk analyses, and evaluate the need to revise its procedures on information collection and information management. It must be underlined that in some extreme circumstances, return visits to those have given information confidentially can in themselves be potentially dangerous, notably by drawing further attention to the individuals' contacts with an international humanitarian or human rights actor.

Cooperation and exchange



41. Protection actors must avoid, to the extent possible, duplication of information collection efforts, in order to avoid unnecessary burdens and risks for victims, witnesses and communities.

In some unavoidable cases, an individual has to be contacted by several protection actors. A victim of sexual violence may, for example, be contacted by an NGO offering psychological support, by an organization offering legal aid, while being treated at the nearby medical centre. It can happen that a victim of abuse is asked repeatedly the same questions, without understanding why he/she has to give the same information to different organizations. Repetitive questioning may cause the victims of abuse to relive their traumatic experience time and again. The information collector must be sensitive to such risks, ensuring for example, to the degree feasible, that appropriate psychological or psychosocial support is provided both during and after the interview. Protection actors should also carefully consider whether the information collection is essential to fulfilling their protection objectives, and whether the positive impact it may engender warrants the level of anxiety that may be generated for those concerned.

There is an inherent contradiction between the need to collect accurate and comprehensive information, and the importance of minimizing the trauma and burden for the information provider. Protection actors should thus consult each other to determine who collects which type of information, for what purpose, as well as clarifying how much information is already available, and if and how it can be shared. Here too, protection actors must obtain informed consent before passing the information to other competent actors.



42. Whenever information is to be shared, its interoperability should be taken into account in planning the information collection.

Exchanging information requires a compatible structure and design. Unstructured or semi-structured information can be more difficult to exchange electronically, but can be valuable in providing important contextual information and detail.

A degree of structured exchange can be obtained by using standard formats. Such formats do not have to be the same for all protection actors, as each has its specific needs. However, it is good practice to agree on a set of fields that are essential, and should be included in all forms, as well as a standardized way

of entering information into these fields. For example, for tracing purposes, it is good practice to agree on the minimum fields needed to identify a person accurately, such as full name, date of birth, father's name, mother's name. These fields should then be incorporated into the forms used by all protection actors that provide tracing services.

Once the set of common fields has been identified, it is useful to agree from the outset on common terminology for type of violation, type of vulnerable group, geographical data, local professions, local ethnic groups, etc. This will serve to avoid errors of misinterpretation during collection and processing.

It may not be possible, owing to constraints such as confidentiality, to share raw information. Efforts to use the same method of organizing and structuring the information can nevertheless facilitate comparisons of trends and analysis. This will help ensure that conclusions on the same topic by various protection actors do not contradict each other.



43. When handling confidential and sensitive information on abuses and violations, protection actors should endeavour, when relevant and feasible, to share aggregated data on the trends they observed.

There are many situations in which protection actors are unable to share all or part of their information on specific abuses or violations – in the absence of the informed consent of the victims, their family members or witnesses, or as a result of their own risk analysis. They may nevertheless be able to share aggregated data on trends. These data, which do not contain any information on individuals and their particular circumstances, can be helpful to other protection actors in their own protection programming.



44. Protection actors should establish formal procedures on the information handling process, from collection to exchange and archiving or destruction.

Written procedures are an effective tool for ensuring that information processes are handled systematically and professionally. These procedures are especially useful in ensuring the relevance and quality of information, its security, as well as clarity regarding archiving and destruction.

Procedures should also integrate key elements linked to the preparation of interviews in any given context, particularly with respect to informed consent and privacy. They are of critical importance in emergency situations, where staff turnover is often high, and institutional memory may be limited.

Interviews with victims, their family members or witnesses, should not be conducted by untrained staff. Adequate support, including training, should be given to ensure that all aspects of the information process is handled professionally.



Virginie LOUIS/ICRC

Chapter 6:

ENSURING PROFESSIONAL CAPACITY

Standards and guidelines

- !** 45. Protection actors must identify and address gaps in their professional capacity to carry out protection activities. 71
- !** 46. Protection actors should make every effort to secure sufficient resources to support their protection activities at the level and for the duration of their commitment. 72
- !** 47. Protection actors must ensure that their staff are adequately trained to deliver protection activities that are of high professional quality. 72
- !** 48. Protection actors must keep themselves informed, and adopt as appropriate current practices and guidelines of relevance to their protection activities. 73
- !** 49. Protection actors must take measures to minimize the risks to which their staff are exposed. 73
- !** 50. Protection actors must adopt an institutional code of conduct and ensure compliance. 74

Ensuring professional capacity

This chapter is concerned with the internal processes, competencies and capacities required by humanitarian and human rights actors doing protection work in armed conflict and other situations of violence.

Its first part underscores the importance of ensuring a co-relation between the stated intentions of a protection actor and its capacity to deliver. This involves the capacity to define intentions and plans for their realization, to ensure the requisite means; and then to implement. While mandates and mission statements of protection actors articulate broad organizational goals, operational objectives and plans of action define more specific commitments in a given operational context. However, for these planning tools to be relevant, the protection actor must have the capacity to deliver – in real terms – on the commitments they convey. The necessity of ensuring adequate human resources is thus underlined.

The second part of this chapter looks at the possible implications of engaging in protection work on staff management. It outlines the essential support any organization must provide to its staff, including training, developing best practice, managing security, and clarifying expectations in terms of conduct.

Ensuring relevant capacity and competencies



45. Protection actors must identify and address gaps in their professional capacity to carry out protection activities.

Protection work is staff intensive, and demands a range of technical competencies. Engaging the responsibility of the authorities through advocacy or bilateral dialogue can be sensitive in nature, and technically demanding. Results frequently depend on the accuracy of the problem analysis, and the precision of subsequent evidence-based advocacy. Those responsible for providing technical advice, or for implementing protection activities must be versed in the relevant concepts, approaches, and methodologies of this work; and be familiar with applicable legal frameworks. They must also have the capacity to work under varying operational and security constraints.

Protection work is increasingly diverse, with evolving specializations. Accurate analysis and effective response to the particular protection needs of populations at risk requires expertise on a variety of specific issues. Penal reform; sexual and gender-based violence, tracing people unaccounted for and restoring family links; housing, land and property claims, are examples of these issues. A range of generic competencies are also required, such as intercultural skills; communication and interviewing skills, negotiating skills, general contextual and political analysis skills, legal knowledge, drafting skills, advocacy skills, data management and statistical skills, and coordination skills.

It is important for protection actors to undertake regular and systematic analysis of their professional competencies, assessing them against the operational commitments they have made. This “real versus projected” analysis should enable a timely identification of critical gaps, and allow for rapid corrective action.



46. Protection actors should make every effort to secure sufficient resources to support their protection activities at the level and for the duration of their commitment.

Protection actors should establish specific operational objectives, and develop activities with a defined duration and expected results. They should also analyse the resources required to deliver on these commitments, and endeavour to secure resources for an adequate period of time, before starting an intervention.

While avoiding resource-driven programming, protection actors should work with donors to ensure that funding for their activities is flexible enough to avoid curtailing programmes or projects while there are ongoing protection needs. There are, however, obvious limitations to this effort. For example, multi-annual funding is seldom obtained, while seemingly secure funding can quite suddenly and unexpectedly dry up.

To the extent possible, such shortfalls should be anticipated, along with efforts to analyse the potential impact on the affected population. When the risk of a shortfall is high, pre-emptive measures and contingency planning must be put in place. In cases where an interruption is inevitable, all relevant stakeholders should be alerted as rapidly as possible. Operational adjustments must be implemented swiftly, including concerting with other actors. In the likely event of a handover of activities to actors with the means and capacity to continue, all efforts must be made to minimize negative consequences for the people at risk, caused by the shortfalls and ensuing interruptions of programme.

Staff training



47. Protection actors must ensure that their staff are adequately trained to deliver protection activities that are of high professional quality.

As already emphasized, protection work can be sensitive, and often takes place in complex and fluctuating circumstances. It is the responsibility of each protection actor to ensure that its staff develop and maintain the required skills to perform satisfactorily in such environments. There are constant risks of creating a negative impact for the people for whom this work is conducted. Hence the vital need for protection activities to be carried out by staff with appropriate competencies, and for protection actors to maintain adequate in-house capacities.

The demanding technical complexities and rapid evolution of the protection sector as a whole, have led to insufficient availability of highly skilled protection

staff, to meet operational demands. Beyond the possible recruitment of some new staff with the requisite skills, protection actors must therefore develop additional strategies, with training as a core feature. For those actors which do not have the means or desire to develop their own comprehensive training programmes, facilitating the access of their staff to other available opportunities should be a priority. Other options such as on-the-job coaching and mentoring programmes may also be useful.



48. Protection actors must keep themselves informed, and adopt as appropriate current practices and guidelines of relevance to their protection activities.

A wide range of guidelines are now available on specific protection issues. They include gender-based violence; child protection; housing, land and property rights; access to justice; mine action; protection of the elderly and people with disabilities, etc.

The proliferation of protection references is expected to continue. In the absence of a rigorous quality control process, and with no body formally tasked to guide, manage or judge the quality of the reference materials produced, it is up to the users to assume this task, exercising their own judgement as to the quality of what they use. It is in the interest of protection actors to draw from collective experience, and to keep themselves informed of the evolution of protection work, adapting and adopting new policies, approaches and practices as appropriate. They must also take measures to ensure that their field staff are informed of useful new materials relevant to their activities.

By documenting their own activities, lessons learned and best practice, protection actors can also actively contribute to the evolution of concepts, policies and practices and to the development of their sector.

Managing staff safety



49. Protection actors must take measures to minimize the risks to which their staff are exposed.

Protection work is inherently dangerous since it often challenges the status quo of the operational environment, and may pose a threat to long-standing practice of abuses of human rights. While this work may be welcomed by victims, there is always a risk of an aggressive response (overt or otherwise) by the abusers.

The actual risks and vulnerabilities that protection staff might confront obviously vary according to the context, and a careful analysis of specific threats that their activities might generate is a constant necessity. Understanding these threats – what they are, who is the perpetrator/source, what is the motivation and the intent as well as who is at risk of being targeted, and why – is essential in order to manage them effectively.

The distinction between risks facing national and international staff is of particular importance in this analysis. The value of the knowledge, insight, and analysis that a national perspective can offer in informing and shaping an effective protection response must be weighed against the potential risks that national staff might face, owing to their association with protection activities. For, in many cases, these staff face different – and often greater – security risks in this work.

It can happen that national staff are perceived by various stakeholders as having a personal interest in the dynamics of the conflict. Their mere involvement in protection activities may implicate them in the eyes of those stakeholders, if only in terms of perceptions.

Whenever risks – either in terms of security or of dangerous perceptions – have been identified, the exposure of national staff to sensitive circumstances, processes, people or information must be reduced – and the distinct roles clearly demonstrated to all stakeholders.

In all circumstances, staff at all levels must be informed of the risks they may face. No staff should be forced to participate in an activity presenting risks they are not willing to take: the option of declining to participate must be kept open to all. Such open and frank discussions are critical to managing these risks and equipping staff to keep themselves safe in sensitive environments. Each protection actor should also develop clear security management guidelines, and ensure that these are made available to and discussed with all staff – national and international – while ensuring that adequate training on security management is provided.

Ensuring ethical conduct by staff

50. Protection actors must adopt an institutional code of conduct and ensure compliance.

Each protection actor must ensure that all their staff conduct themselves according to established ethical standards. Codes of personal conduct are essential to ensure that no individual action by protection staff causes harm, intentionally or unintentionally, or generates additional risks for affected communities and individuals (or for the operating team). They are also critical in clearly defining the perimeters of acceptable practice, behaviour and personal conduct. While not necessarily specific to protection work, a number of policy documents aimed at regulating the behaviour of staff towards beneficiary populations have been widely endorsed by humanitarian and human rights actors. They include important policies that seek to eradicate sexual exploitation and the abuse of beneficiary populations, with particular vigilance with respect to the enhanced risks of exploitation that can occur when working with persons in situations of extreme vulnerability.

Once a protection actor has adopted a code of conduct, concrete measures to ensure compliance must be put in place. As a minimum, such measures must include: making the policies available to all staff; briefing them on their content; allowing access by the public (at least to those parts that relate to

interaction between staff and affected communities or individuals); ensuring clear reporting lines that are safe and confidential both for staff and for beneficiaries on potential breaches of the policies; and establishing accessible monitoring mechanisms.



Teun Anthony VOETEN/ICRC

Developing these standards – an ongoing process

From the outset, the process of developing these protection standards and guidelines has been highly consultative. It has sought to be as inclusive as was feasible, in order to benefit from the wealth of experience gained within the protection sector over recent years, and capture contemporary thinking, priorities and concerns.

Although this project has been spearheaded by the ICRC, substantial contributions have been made firstly through an advisory group composed of experienced practitioners and researchers from diverse humanitarian and human rights organizations.¹ The advisory group, convened in January 2008, proved to be the main forum in which reflection and debate took place, and where conclusions on how to address complex issues covered in the text were reached. A series of concept notes were developed as a starting point. The issues were subsequently explored, debated and further analysed through a series of telephone, electronic and face-to-face sessions of the advisory group.²

A consolidated draft document capturing the substance and conclusions of this process was presented to a wider audience for critical review at the beginning of 2009. The aim was to reach some of the main actors and thinkers engaged in protection work in armed conflict and other situations of violence, in order to determine whether the breadth and depth of the document adequately addressed the most important issues challenging protection work today.

Valuable and constructive input was received through a wide range of channels in this process. As a result, more than half of the document was entirely rewritten. A second consolidated draft document was produced in May 2009, incorporating feedback from this consultative process. This draft was again reviewed by the advisory group for relevance, accuracy, comprehensiveness, coherence, consistency, level of detail, technical precision, as well as presentation and readability. It was again further adapted according to expert critique.

The document presented here is the final product of this lengthy process, in which a wide range of contributors have been involved. Although far too numerous to be mentioned here, the ICRC, on behalf of the advisory group, extends its appreciation to all those who engaged with this process. As a product of an interactive process, it faithfully reflects contemporary concerns and is of direct relevance to the majority of actors concerned.

As recalled in the Introduction to this document, the need has long been felt for a set of professional standards for protection work carried out by humanitarian and

¹ Members of this advisory group are listed in the Introduction.

² From January 2008 to July 2009, the advisory group met four times; twice in Geneva and twice in London.

human rights actors in armed conflict and other situations of violence. Useful work has previously been achieved in the area of strengthening protection in war, but until now, has fallen short of a comprehensive set of professional standards. Those presented in this document aim to fill that gap. It is now up to individual protection actors to devise how best they can share and apply these standards. This must be a dynamic process. These professional standards are intended to serve as a reliable reference – the baseline from which to make further progress in the coming years.

Selected reference material

Chapter 1

Anderson, Mary B., *Do No Harm: How Aid Can Support Peace or War*, Boulder, Lynne Rienner, 1999.

Gioffi Caverzasio, Silvie (ed.), *Strengthening Protection in War: A Search for Professional Standards: Summary of discussions among human rights and humanitarian organizations*, Workshops at the ICRC, 1996-2000, ICRC, Geneva, 2001.

ICRC, *Enhancing Protection for Civilians in Armed Conflict and Other Situations of Violence*, ICRC, Geneva, September 2008.

Mahony, Liam, *Proactive Presence: Field Strategies for Civilian Protection*, Centre for Humanitarian Dialogue, Geneva, 2006.

Minimum Agency Standards for Incorporating Protection into Humanitarian Response, Field Testing Version, Caritas Australia, CARE Australia, Oxfam Australia, World Vision Australia, 2008.

Slim, Hugo, "Why Protect Civilians? Innocence, Immunity and Enmity in War", *International Affairs*, Vol. 79, No 3, 2003, pp 481-501.

Slim, Hugo and Bonwick, Andrew (eds), *Protection: An ALNAP Guide for Humanitarian Agencies*, Overseas Development Institute, London, 2005.

The Sphere Project, *Humanitarian Charter and Minimum Standards in Disaster Response*, Revised Edition, Geneva, 2004.

Chapter 2

Inter-Agency Standing Committee (IASC), *Growing the Sheltering Tree: Protecting Rights through Humanitarian Action – Programmes and Practices Gathered from the Field*, IASC, Geneva, 2002.

IASC, *Civil-Military Guidelines and Reference for Complex Emergencies*, IASC, Geneva, March 2008.

InterAction Protection Working Group, *Protection in Practice: A Guidebook for Incorporating Protection into Humanitarian Operations*, InterAction, 2005.

O'Callaghan, Sorcha and Pantuliano, Sara, *Protective Action: Incorporating Civilian Protection into Humanitarian Response*, HPG Policy Brief 29, Overseas Development Institute, London, 2007.

Chapter 3

Guiding Principles on Internal Displacement, United Nations, September 2004.

The Paris Principles and Guidelines on Child Associated with Armed Forces or Armed Groups, Paris, February 2007.

Madrid International Plan of Action on Ageing United Nations, Report of the Second World Assembly on Ageing, New York, 8-12 April 2002.

Standards Minimum Rules for the Treatment of Prisoners, United Nations, ECOSOC, Resolution 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977.

Chapter 4

de Maio, Jacques (ed.), *The Challenges of Complementarity: Report on the Fourth Workshop on Protection for Human Rights and Humanitarian Organizations*, ICRC, Geneva, 2000.

Graves, Sue; Wheeler, Victoria and Martin, Ellen, *Lost in Translation: Managing Coordination and Leadership Reform in the Humanitarian System*, HPG Policy Brief 27, Overseas Development Institute, London, 2007.

ICRC, *Strengthening Protection in War: a Search for Professional Standards*, ICRC, Geneva, 2001.

IASC, *Civil-military Relationship in Complex Emergencies*, IASC, Geneva, 2004.

IASC, *Civil-Military Guidelines and Reference for Complex Emergencies*, IASC, Geneva, March 2008.

Chapter 5

InterAction Protection Working Group, *Data Collection in Humanitarian Response: A Guide for Incorporating Protection*, InterAction, 2004.

ICRC, *The Legal Protection of Personal Data and Human Remains*, Final Report and Outcome, Electronic Workshop, ICRC April - May 2002.

Principles of Humanitarian Information Management and Exchange, Report of the Global Symposium +5 on Information for Humanitarian Action, Geneva, October 2007.

World Health Organization (WHO), *Ethical and Safety Recommendations for Researching, Documenting and Monitoring Sexual Violence in Emergencies*, WHO, Geneva, 2007.

Chapter 6

Bugnion, Christian, *Analysis of the "Quality Management" Tools in the Humanitarian Sector and Their Application by the NGOs*, ECHO, Brussels, 2002.

Code of Conduct for the International Red Cross and Red Crescent Movement and Non-Governmental Organizations (NGOs) in Disaster Relief, ICRC, Geneva, 1994.

Guiding Principles for Human Rights Field Officers Working in Conflict and Post-conflict Environments, Project "Consolidating the Profession: The Human Rights Field Officer", Human Rights Law Centre, School of Law, University of Nottingham, 2008.

IASC, *Plan of Action and Core Principles of Codes of Conduct on Protection from Sexual Abuse and Exploitation in Humanitarian Crisis*, Geneva, June 2002.

Keeping Children Safe: A Toolkit for Child Protection, The Keeping Children Safe Coalition, 2006.

Oxfam, *Improving the Safety of Civilians: A Humanitarian Protection Training Pack*, Oxfam, February 2009.

UNHCR, *Protecting Refugees: A Field Guide for NGOs*, UNHCR, Geneva, 1999.

MISSION

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The ICRC also endeavours to prevent suffering by promoting and strengthening humanitarian law and universal humanitarian principles.

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