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FLAWS IN HUMANITARIAN PROTECTION: THE CASE OF DISPLACED PEOPLE

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In humanitarian emergency contexts, the category of 'displaced people' is so wide-ranging that it is almost impossible to provide a single definition. The simplest way to define this category would be to focus on what these people have in common, namely having to move from one place to another due to a change of context. In fact, these men, women and children, whether they are internally displaced people, refugees, returnees etc. share a common experience of displacement and of facing the challenges of starting over. Their fears are the same whether being forced to leave their daily lives or returning of their own free will.

For all these people, living conditions are critical and are the particular focus of humanitarian actors. Considering their exposure to abuses, fundamental rights violations, physical violence, social disintegration and the wearing away of cultural identity, humanitarian protection programmes are set up immediately to assist these people. And so, large-scale displacements of populations during emergencies systematically trigger huge protection programmes. However, it is imperative that we question the timing of this kind of response. Should we always wait until the population is displaced before we launch protection programmes? Does post-emergency protection, taking place after people have been displaced, really ease their suffering? What do we seek to protect them from, once they have fled their homes and abandoned their belongings? Also, can we maintain that fundamental rights are still safeguarded in such circumstances? These are just some questions that go unnoticed by humanitarian actors who are generally wrapped up in the emergency response.

The concept of protection within the humanitarian context

Providing a perfect definition of humanitarian protection is not an easy task but some organisations have already outlined the essentials. According to the World Food Programme, "*humanitarian protection involves humanitarian agencies doing what they can to help promote, respect and fulfil human rights – in accordance with international law – within the context of their work*"[1]. This

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[1] "WFP and humanitarian protection: Informal consultation on the protection policy" *World Food Programme, Rome, 31 October 2011, p5*

definition is rather broad and encompasses all activities related to protection. The ICRC has put the emphasis on armed conflict when referring to International humanitarian law[2]. From these two efforts, we infer that the concept of protection embraces, on one hand, all activities aiming at reducing people's vulnerability to certain threats, and on the other hand, mitigating or averting any possibility of harm to people at its source[3]. In essence, it appears that protection covers two aspects: it directly targets beneficiary populations by implementing a range of activities that guarantee the respect of their fundamental rights; and at the same time it tackles the origin of the threat itself seeking to reduce its harmful development. Therefore, it makes sense that protection is carried out in a preventive manner, in periods of relative stability, to set up institutional and sociocultural foundations for the respect of rights; and then in a context of humanitarian crisis to prevent violations and abuses. All in all, protection addresses the fundamental question of human rights and comes down to *"a concern for a person's safety, dignity and integrity as a human being"*[4]. And yet, a close assessment of protection programmes over the past two decades reveals a rather disappointing outcome, which needs to be brought to the attention of humanitarian actors. The timing of protection programmes is generally misjudged as can be seen in cases of displacement of populations during humanitarian crises. Protection mechanisms are mostly initiated when rights, which are supposed to be protected, have already been violated. Indeed, we see huge protection programmes when thousands of people have already been forced to leave behind their homes, their livelihoods and their cultural heritage etc. It is at this point that the humanitarian protection programme starts, which has no purpose other than to assuage the conscience of the international community[5]. But where is the evidence that allows us to bring such a charge?

The implications of forced displacements for populations

To better understand the aberration of post-displacement protection programmes, it is essential to first be fully aware of the hardships and distress people experience in a situation of forced displacement:

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[2] Read *Sylvie Giossi Caverzasio*, Strengthening Protection in War : A search for professional standards, *Geneva, ICRC, 2001, p19*
[3] See a detailed presentation of possible activities for each component in: "Manuel de bonnes pratiques pour la protection humanitaire et le Cluster Protection en RDC" [Good practice handbook for humanitarian protection and the Protection Cluster in DRC], *Protection Cluster DRC/Oxfam-ECHO, 2011, p7*
[4] *Hugo Slim & Andrew Bonwick*, "protection: An ALNAP guide for humanitarian agencies", *Overseas Development Institute*, *London, 2009, p30*
[5] In Mali, the protection strategy was launched by the Protection Cluster in December 2012, while on 30 November there were already 354,000 people who "have been forced to flee their homes". See Stratégie Protection Mali En Situation de conflit armé [Mali Armed Conflict Protection Strategy], *Protection Cluster, Bamako, December 2012, p3* (http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Mali/files/Mali_PC_Strategy_December_2012_FR.pdf)

During displacement, people are at risk of violence, particularly in cases of armed conflict[6]. They experience massive loss in livelihoods (fields, seed stocks, production tools, herds, monetary savings, service jobs etc.), scattering of entire families, cultural uprooting, adjustment issues etc. When they arrive at their place of refuge, these people have left everything behind them. At this stage, most social, economic and cultural rights have already been entirely violated. This is simply due to the displacement itself. What can they still be protected from when they have already lost everything, even their dignity? Moreover, the flow of displaced people or refugees into a new place usually causes problems both for host populations due to the pressure on resources and for displaced people themselves who have to adapt to a new place where they do not wish to be. As for governments, they must sometimes face difficult dilemmas such as in the 1990s when Kenya faced the arrival of huge numbers of Somali refugees[7]. The displacement of populations can also reshape the ethnic landscape of some areas and increase the risk of destabilisation in a country[8]. These factors speak volumes and remind us that the first kind of protection people need is protection that prevents them from being displaced; and that all massive population displacement should be seen as a failure of protection strategies.

Meanwhile, data helps us to assess the scale of this failure. According to the UNHCR, in 2011 the total number of people forced to leave their homes due to armed conflict and infringement of their rights had increased to 42.5 million[9]. This upward trend was confirmed in the following years as in 2012 the figure reached 45.2 million[10]. Most of these displacements occurred in regions recognised as unstable for several years and are recurring problems. This supports the theory that humanitarian actors have settled for post-displacement protection and are still not truly working on any palliative measures. A way to improve this would be to rethink the timing of humanitarian interventions in terms of protection programmes.

Rethinking the timing of protection programmes to curb forced displacements

The first condition for the effectiveness of humanitarian intervention is the respect of timing. This requirement is particularly important when it comes to issues related to protection. Therefore, it is

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[6] Read *Hugo Slim*, Killing Civilians: Method, Madness and Morality in War, *London, Hurst, 2007, p37-38* (It refers to the case of people who fled Brazzaville during the civil war in the late 1990s. These people were the target of both rebel groups and government forces at different stages of their displacement).

[7] *UN High Commissioner for Refugees (UNHCR), The Causes, Character and Conduct of Armed Conflict, and the Effects on Civilian Populations, 1990-2010, April 2012, PPLA/2012/03, available at: http://www.refworld.org/docid/4f8c3fcc2.html [accessed 5 December 2013]*

[8] *Myron Weiner* "Security, Stability and International Migration", *International Security, Vol. 17, N° 3, 1992/1993; pp103-117*

[9] "A year of crises" *UNHCR Global Trends 2011, Geneva, June 2012, p5* http://www.unhcr.fr/501145f39.html

[10] "Displacement: The New 21st Century Challenge" *UNHCR Global Trends 2012, Geneva, June 2013, p3*

essential to clearly define the continuum of events that trigger humanitarian intervention to pinpoint the timing of protection. This continuum is set out over three phases:

Phase 1 is about the warning signs. At this stage, signs of pending humanitarian crisis are present but they are not usually easy to spot: they may only be identified through an exhaustive analysis of the context or a targeted evaluation. Unfortunately the hidden nature of these warning signs conceals the urgency of and need for analysis and evaluation work. A perfect example of this is the Masisi territory in North Kivu, in Eastern DRC, an area that is teeming with militias and other paramilitary groups with various ethnic influences and unclear political agendas. Most of these armed groups, which control large parts of the territory, appear as a sort of alternative to the lack of security in the area and so they sometimes receive support from the local population. Between them alliances are forged and broken; hostility and collaboration alternate at the pace of interest rate fluctuations. This context, having remained frozen for many years, ends up presenting a semblance of normality and suggests stability while all the elements of a humanitarian disaster are present, including the protection issues resulting from this. This "false normality", albeit with other factors involved, is also present elsewhere in DRC. This is the case of the Ruzizi Plain, where the International Crisis Group[11] has carried out a noteworthy analysis. Protection of civilians should be the main concern in these contexts. Unfortunately, protection programmes are too often overlooked by the humanitarian community in this first Phase. It is all the more surprising that even though protection issues are well known, the appropriate actions are almost never initiated during this Phase. It is the same situation in contexts with high risk of natural disaster which pose issues of protection[12].

Phase 2 is related to the crisis breaking out. This phase marks the transition from warning signs to the outbreak of the crisis. Most of the time, this is sudden, particularly in natural disaster contexts. However, research can make it foreseeable, whatever the nature of the crisis. It is also important to understand that Phase 2 is brief and is often characterised by enormous constraints on humanitarian intervention because the context is still too fragile. In 2010 in Haiti, for example, an earthquake with a magnitude of 7.3 was followed by a dozen aftershocks with magnitudes between 5.0 and 5.9, according to the United States Geological Survey. In this context, humanitarian intervention is seriously hampered, at least in the early stage. Therefore, in Phase 2 reaction is limited and protection activities are very rare.

Phase 3 takes place when the immediate consequences of the crisis arise: material losses, casualties, injuries and damage to society etc. It occurs immediately after the driving force behind the crisis (war, natural disaster, etc.) reduces in intensity or frees enough space for humanitarian action. Obviously, at

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[11] "Understanding Conflict in Eastern Congo (I): The Ruzizi Plain", *International Crisis Group, Africa Report N°206, 23 Jul 2013 pp3-18*

[12] Example of Madagascar whose coasts have been regularly ravaged by storms for centuries, causing the same losses and population displacements, while technological advances have long been able to assess risks accurately. Read *Jean Celerier & André Cholley* "Les Cyclones de Madagascar" [The storms of Madagascar], *Annales de Géographie, Vol.38, N°213,1929, p295*

this stage, the humanitarian needs are much easier to estimate, and the population's plight is evident. It is at this stage that the first real relief is provided and emergency humanitarian programmes begin. All humanitarian sectors (NFI, WASH, Food distribution, Protection, Health etc.) are present in these early assistance programmes and underline the enormous generosity of the international community. Humanitarian actors are very active at this stage, which is absolutely laudable[13].

However, if all humanitarian activities are relevant during Phase 3, protection should not be limited to this. Protection activity, due to its nature and its purpose, must begin at Phase 1. This is where it makes sense for beneficiary populations to be spared the worst, that is to say, the violation of their fundamental rights recognised by international legal instruments. Protection, when it occurs in advance, limits losses and damages caused by a humanitarian emergency and spares populations having to resort to the ultimate and desperate solution: flight.

This relates, for example, to conflict settings such as Eastern DRC, implementing wide and effective diffusion of International humanitarian law and substantive work on its assimilation by all stakeholders so that the rights of the civilian population are preserved in every situation. Protection work in this case could also tackle disenfranchisement and destitution of young people beset by recruitment into militias. For natural disasters, effort should be focused on coping strategies that avoid mass exodus as the only solution to disasters. Accountability of the State through advocacy should enable initiatives to be developed such as planning of suitable accommodation types, development of alternative agricultural crops, the pre-positioning of health infrastructures etc. All this protection work when carried out before the onset of a humanitarian emergency, significantly reduces the propensity of people to flee the affected areas ensuring their right to their resources, to work, to live in their usual environment, to preserve cultural heritage and so on. In short, all the fundamental rights that international conventions guarantee and that protection is supposed to safeguard.

In his presentation of the various components of protection, Liam Mahony highlighted a very important point, *"long-term work that is not targeting specific moments of abuse, but rather aims to build structures and capacities and change attitudes in society which will make conflict and abuse less likely to occur in the future, or to un-do damaging structural problems that make abuse more likely"*[14]. These ideas pertain to the preventive aspect of protection and make it possible in conflict situations, for example, to prevent situations that may affect the fundamental rights of the people. This applies not only to the armed conflicts, but also to natural disasters. In both cases, working in advance must be a priority. The purpose is not to eradicate the conflicts in the world or prevent disasters from occurring, but rather to increase work in advance so that these conflicts and disasters, whatever their size, do not force people to leave their homes. Evidently, it is the feeling of insecurity and lack of

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[13] As in 2004 after the Tsunami in South East Asia

[14] *Liam Mahony* "Non-military strategies for civilian protection in the DRC", *Fieldview Solutions, March 2013, p3*

protection that pushes people into exile and as soon as they set off on the road, protection has already failed.

It is therefore time for humanitarian actors to moderate their satisfaction in protection programmes in refugee camps or camps for internally displaced people. In terms of protection, the displacement of populations should not be seen as the starting point of humanitarian intervention, but rather the evidence of the failure of such intervention. Whenever groups of people fleeing emergencies leave their homes, the limits of humanitarian actors' capacity to protect them are reached. Perhaps it is time to seriously open the debate on whether humanitarian actors should bear responsibility for protecting populations or not. For some analysts, this question is already answered: Humanitarian workers do not have the mandate to protect populations. Their role ends with providing assistance[15]. This position, in our view, fundamentally calls into question the commitment and the role of humanitarian organisations in assisting others given the undeniable consubstantiality between material humanitarian aid and protection work. ■

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[15] *Marc Dubois* "Protection: the new humanitarian fig-leaf?" *Groupe URD*, http://www.urd.org/La-Protection-le-nouveau-cache accessed 14/08/2013

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