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# Protection in Practice: Field-Level Strategies for Protecting Civilians from Deliberate Harm

by Diane Paul

## Abstract

The term complex humanitarian emergency refers to emergencies affecting large numbers of civilians due to a combination of factors. These include armed conflict, population displacement, loss of shelter and community, food shortages, and disease. The term is often a euphemism for what, in reality, is the massive and deliberate violation of human rights. The crises in Rwanda, the former Yugoslavia, Chechnya, Sierra Leone and elsewhere are considered complex in part because the traditional response to humanitarian crises – meeting needs for water, food, medicine and shelter – doesn't get at the crux of the matter: the need for physical safety; for protection from deliberately inflicted harm.

It may seem obvious that human rights abuses (or more correctly when armed conflict is involved, violations of humanitarian law) are at the core of these emergencies, but the protection of civilians from attack and/or persecution is not at the centre of most humanitarian action. Instead, most humanitarian assistance seeks to alleviate suffering after the abuses have occurred or while they are occurring. This creates dilemmas for relief organisations and others. Governments have used humanitarian assistance as a way to avoid more difficult interventions, giving rise to the term 'humanitarian alibi', and the less genteel reference to the 'well-fed dead'.

While the International Committee of the Red Cross (ICRC), the 'guardian of the Geneva Conventions', has a specific protection mandate, despite its best efforts, the organisation cannot adequately provide for the many

protection needs of populations in complex emergencies. During armed conflict, and in the periods which precede and follow conflict, a field-level 'security gap' often exists where civilians are unprotected.

This paper holds that those international organisations present in areas where violations occur have an obligation to act in ways which will enhance protection (or at minimum will not undermine protection). It is believed that an integrated approach to protection is required; one which builds a strategic, field-level response based upon the complementary strengths of various actors. For this approach to be successful it is necessary to identify a 'focal point' for protection (perhaps called the 'protection facilitator') in every crisis. The protection facilitator's role would be to raise the profile of protection, ensuring its place on the international community's agenda and pressing for decision-making which takes protection into account. This paper offers examples of specific strategies and tactics which have been used in the field to prevent or mitigate abuses, and could be adapted for use in other situations.

It is fully acknowledged that humanitarian relief workers, human rights and civilian police monitors and others present in the field cannot hope to address effectively violations of international humanitarian or human rights law if there is a lack of political will to stop abuses and hold perpetrators accountable. But by their actions across conflicts they have, thanks to their courage and ingenuity, saved many thousands of lives.

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# 1

## Protection: What Is It and Who does It?

### Putting Protection Back on the Agenda

The end of the Cold War brought hope that a new era of enlightenment – the realisation of the Geneva Conventions and the Universal Declaration of Human Rights – might finally be upon us. But in this decade alone, the last decade of the millennium, we have witnessed genocide in Rwanda; ‘ethnic cleansing’ and mass rape in the former Yugoslavia; horrific amputations in Sierra Leone; the annihilation of the city of Grozny in Chechnya; continuation of the long, war-induced famine, slavery and other violations in Sudan; ongoing violence in Colombia and Guatemala; and the enslavement and oppression of the Burmese people, to name but a few horrors. Organised violence against women, minorities, dissidents, journalists and human rights activists and others continues in a multitude of countries.

The political will to intervene in expedient, effective ways to stop these abuses, despite oft-repeated rhetoric about respect for human rights, has never materialised. The major powers have, by their actions, left no doubt: unless there is a clear and direct threat to their own national security they will resist intervening to save lives – as dramatically evident in Rwanda and, most recently, Kosovo, where intervention to stop ethnic cleansing took place from 10,000 feet up. When they do intervene, guarantees of quick success and assurances of minimal risk are expected. As Oxfam’s David Breyer observed:

The international community cannot or will not take on its responsibilities under [international humanitarian and human rights] law to safeguard rights in the face of that disintegration of morality – and indeed it is that failure to properly undertake such global responsibility that at present makes the idea of an ‘international community’ an aspiration rather than a reality (Breyer, 1996).

The lack of will to stop (and to hold accountable) those who achieve their aims for power and material gain through massive violations of human rights has been somewhat masked, however, by increased engagement through other means: the work of intergovernmental (IGO) and non-governmental (NGO) organisations. Governments, obliged by public pressure to ‘do something’, have intervened by awarding large contracts to relief agencies and fielding unarmed civilian missions, but have not acted to stop genocide in Rwanda, to issue timely indictments, and to arrest leaders responsible for war crimes in the former Yugoslavia, or to decisively address serious ongoing violations elsewhere. While Milosevic has been indicted for war crimes following atrocities in Kosovo, there are those who believe that he should have been indicted much earlier for war crimes in Croatia and Bosnia-Herzegovina (BiH).

While governments have participated in a number of peacekeeping missions, peacekeepers have been deployed too late and there has been a profound reluctance to include the protection of civilians in peacekeeping mandates. Even in the presence of armed

peacekeeping forces, then, the direct protection of civilians is sorely neglected. The focus is placed instead on the provision of humanitarian aid, the monitoring and reporting of violations, and the reform (usually at a slow pace) of the military, police and legal systems in war-torn countries – each important but none sufficient to meet the immediate protection needs of populations in danger.<sup>1</sup>

The reluctance of governments to address the physical security of civilians under threat places unarmed participants in humanitarian and civilian monitoring missions on the front lines as the first and perhaps only line of defence for civilians. This state of affairs raises difficult questions about the role of IGOs and NGOs in complex emergencies (a euphemism for situations where the real problem is often the pronounced violation of humanitarian or human rights law):

- Are relief organisations that receive large government contracts in effect playing along with the political powers which seek to avoid, through humanitarian assistance, action which entails more political, military or economic risk?
- What do human rights or regional monitoring missions achieve from a protection standpoint when they monitor human rights violations but their reports do not result in resolute action to stop those violations?
- What message is sent when the mandates of peacekeeping troops do not include protection – except for their own troops?
- How is respect for human rights promoted when perpetrators commit abuses right under the noses of hundreds or even thousands of peacekeepers and civilian observers with the full knowledge that no one will stop them?
- How should refugee assistance organisations respond when governments refuse to admit refugees, forcibly transfer them, or otherwise compromise their rights even as the aid flows?
- Who is concerned about the physical security of the internally displaced (the number of whom far surpasses the number of refugees in today's crises) when no government or agency will accept responsibility for their protection?

These are questions that will require a great deal of discussion and soul-searching. The answers might yield some new objectives for humanitarians, and there may come a time when IGOs and NGOs organise themselves politically to challenge governments employing the 'humanitarian alibi.'

In the interim all those present in the field have an obligation to ensure that their actions, at a minimum, do not undermine protection. To take this a step further, there is a compelling argument that those present should do everything possible, within their limitations, to mitigate the effects of and prevent abuses. The new

peacekeeping force in Kosovo presents an opportunity to avoid the mistakes of the past. A successful protection programme in Kosovo will require any peacekeeping force, whether under NATO or UN, to examine its responsibility vis-a-vis the protection of remaining and returning ethnic Albanians, ethnic Serbs and other persons under threat, and to plan accordingly. NATO has indicated that peacekeepers, if deployed in Kosovo, would accompany refugees and IDPs home, but what does this mean in terms of their willingness to protect them from attack, and what role will peacekeepers have in areas of return? Certainly, past experience in the Balkans and elsewhere has demonstrated the difficulties which might be anticipated in Kosovo. Still, we must not accept the continuation of the failure to protect as a *fait accompli*. New approaches should be considered and tried in the field, utilising lessons learned from previous experience.

This paper describes some protection principles and strategies developed by a variety of actors under difficult conditions in the field and suggests some 'good practice' guidelines. General protection strategies and specific tactics were gathered through interviews conducted in BiH during the war and in Croatia with protection and field personnel from UNHCR and ICRC and NGOs; with officials from those organisations and representatives of the United Nations Protection Force (UNPROFOR); and importantly, with people at risk.<sup>2</sup> Strategies used in other conflicts have also been collected through the review of relevant literature and discussions with experienced relief and protection workers.

It must be acknowledged that when armed forces are intent upon committing genocide or attacking civilians, strategies such as those described in this paper will be woefully inadequate. Only international political resolve, applied quickly and decisively and backed up in some cases by military force, is sufficient to stop genocide or to neutralise the overwhelming ferocity of attacks against civilians in places like Rwanda, Cambodia, the former Yugoslavia, Chechnya and Sierra Leone.

## Protection: Whose Job Is It Anyway?

The term protection has often been defined by the specific actions of international organisations with specific protection mandates, based upon established international law.

However, it must be remembered that the primary responsibility for the protection and safety of citizens/non-combatants lies with governmental authorities and/or combatants in an armed conflict, in accordance with the law. International humanitarian law (IHL), also called the 'law of armed conflict', consists primarily of the Geneva Conventions and its Protocols.<sup>3</sup> IHL addresses the proper treatment of civilians as well as soldiers who have surrendered, been captured, are wounded or ill, or are otherwise *hors de combat* (out of combat). IHL not only proscribes specific acts, but details the specific

responsibilities of combatants and governments. International human rights law covers the rights of citizens and the obligations of governments in peacetime. Certain acts, such as the extra-judicial killing of persons, torture, rape, and the taking of hostages, are prohibited under any circumstances.

Governments, however, may be unable or unwilling to protect citizens due to the disintegration of societal structures or loss of territorial control. As we have seen, governments frequently carry out abuses against their own citizens. In a number of today's armed conflicts, however, there is a splintering of groups and decentralisation of territorial control. Command and control structures are difficult to discern; a loose, feudal-like system run by local warlords may exist in lieu of a fully unified structure. In some conflicts there is no apparent political agenda; combatants seek only to increase their power and wealth through banditry and the control of the civilian population. These groups often display total disregard or ignorance of their responsibilities under IHL. Obviously, governments and armed forces, even professional armies, cannot be counted on to keep civilians out of the crossfire. Quite the contrary. Civilians are frequently the direct target of combatants. All told, an estimated 90 per cent of the victims of armed conflict are civilians.<sup>4</sup>

The ICRC – the only humanitarian organisation formally mandated by the Geneva Conventions to intervene on behalf of civilians or soldiers *hors de combat* in armed conflict – engages in a variety of protective actions. The ICRC visits and registers persons detained due to the conflict; intercedes with national and local authorities, rebel groups and militias on the behalf of endangered persons; disseminates international humanitarian law through a variety of methods; traces persons missing or separated from families due to armed conflict, etc. The ICRC is permitted to offer assistance under a variety of circumstances under its right of 'humanitarian initiative'.<sup>5</sup> The ICRC does not generally make public protests, however, in order to avoid compromising the Red Cross principles of neutrality and impartiality.

UNHCR defines protection as action to protect refugees from mistreatment after flight from the country of origin, legal interventions, intercessions with governments and local authorities, and the presence of protection officers. It bases its authority on the 1951 United Nations Convention Relating to the Status of Refugees (often referred to informally as the 1951 Convention on Refugees). UNHCR has also described some practical methods for addressing violations of human rights or refugee law in the field, as in the UNHCR Guidelines for the Protection of Refugee Women (UNHCR, 1991). During the conflict in BiH, UNHCR developed an approach referred to as 'preventive protection', using presence and other tactics in an attempt to prevent displacement or ethnic cleansing. It abandoned the concept (at least formally) when it became clear there was little international back-up for its efforts in the field.

Neither the ICRC nor UNHCR, however, is present under all circumstances; nor can they meet, independently or together, all the protection needs of a population in danger. The protection of internally displaced persons (IDPs) is a problem of immense proportion as UNHCR appears less and less inclined to become engaged in protection activities related to IDPs and the ICRC is not necessarily present in all IDP situations.

The UN and regional missions such as the Organisation for Security and Cooperation in Europe (OSCE) usually have mandates which include multiple areas of concern: for example, human rights, democracy-building and elections. Conflicts of interest may develop within missions which have multiple tasks. Pressure to hold elections, for example, may result in downplaying human rights and practical protection concerns which contradict the existence of the necessary conditions for free and fair elections. Other international missions, such as civilian police monitoring missions, are primarily concerned with reform and do not have specific mandates relating to protection as defined in this paper. Even those missions tasked solely with human rights do not necessarily engage in field level protection activities. The monitoring and reporting of human rights violations does not represent a sufficient protection response, as will be explained, although it is an important component of that response.

Independent (non-governmental) human rights groups view the monitoring and reporting of abuses, legal action on the behalf of victims, advocacy aimed towards ending violence and impunity, and engagement in local capacity-building as components of protection. Often, however, international human rights organisations do not have a sustained or significant field presence (although this is changing somewhat with the establishment of offices in-country in a number of countries with serious human rights problems).

While the presence of international peacekeeping forces suggests an intent to protect the civilian population, it has become clear in recent years that the mere presence of peacekeeping forces does not guarantee protection at all. The mandates of UNPROFOR (United Nations Protection Force in former Yugoslavia), UNAMIR (United Nations Assistance Mission in Rwanda), NATO (North Atlantic Treaty Organisation) and other multinational forces have not been designed to protect the civilian population from attack but to contain conflicts, ensure the delivery of humanitarian aid, prevent refugee flows, and establish/maintain zones of separation between hostile parties. Some of these actions undermine protection, others contribute to increasing security but do not adequately address protection. Peacekeeping forces may view their involvement as something which will assist civilians under threat and perhaps even promote human rights, but they have not often played an effective role in protection due to fears of exceeding mandates (the dreaded 'mission creep'), concern that peacekeepers will not be perceived as neutral and, especially in the case of US forces, policies

which hold that troop casualties must be avoided at all costs. Indeed, international peacekeepers generally work under a mandate which permits only the protection of their own troops, not endangered civilians. To complicate matters further, some peacekeepers have engaged in unlawful activities, some of which involve serious violations of human rights (for example, the trafficking of women).

Given these conditions there is a need to develop an integrated, field-based response to protection problems; one which strives to stop and prevent abuses and presses for the effective engagement of regional and UN mechanisms, peacekeepers, and humanitarian organisations.

### **The Concept of Practical Protection**

Legal structures in war-torn countries are unable to respond promptly or effectively to human rights violations and the day-to-day protection needs of citizens. In the Cambodian and Rwandan genocides, the vast majority of judges and lawyers were killed and the legal system totally destroyed. Elsewhere, the courts operate to the benefit of some and to the detriment of others. In the absence of the rule of law (the equal application of legal rights and standards) field-based methods to thwart perpetrators and mitigate or prevent abuses are critically important to the protection of civilians caught up in armed conflict, refugees and IDPs wishing to return home, and members of targeted groups within a particular society. These methods have been referred to as ‘practical protection’.

Engagement in practical protection in no way supplants the critical need to support reform for legal systems

but at least addresses protection needs during the period the legal system is dysfunctional; where a protection or security gap exists. Within this context, protection might be defined as a methodology which seeks to enhance, through field-based strategic intervention based upon analysis and careful planning, physical security for persons and groups under threat: essentially, the practical realisation of the rights of persons under international humanitarian/human rights and refugee law (author’s definition).

While expertise and experience in protection are critical in complex emergencies, relief and development, human rights and other organisations may employ additional strategies which complement the work of the experts (ICRC and UNHCR) and expand the scope of protection by drawing upon the strengths and interests of a variety of actors. An effective protection programme seeks to strengthen the capacity for self-protection of persons and groups under threat.

In fact, field personnel have engaged in ad hoc and collaborative protection strategies to assist people at risk under even the most difficult of circumstances – during the Holocaust, the Rape of Nanking,<sup>6</sup> the genocide in Rwanda, and the wars in Central America and BiH, for example. In each of these situations, lives were saved by the planning and action of a few. Information about the specific strategies developed during these periods, however, has not generally been collected and shared across conflicts for the express purpose of adapting them to new crises. The study of previous protection efforts and their effectiveness under specific conditions could provide useful, practical information for field personnel and their support networks worldwide.



# 2

## Field-Level Protection Strategies

### The Pillars of Protection

The cornerstones of effective protection are:

- i) leadership;
- ii) access;
- iii) assessment/analysis;
- iv) strategic intervention/presence.

Of these, strategic intervention/presence is the most challenging. Currently, however, field operations emphasise assessment/analysis (essentially, the description or investigation of abuses after the fact) over the other three components, for several reasons.

First, it is argued, quite rightly, that an understanding of what is happening and why must be developed in order to build consensus necessary for political, legal or, in fewer cases, military action to stop abuses. Second, and equally valid, is the need for an unbiased party to collect evidence of violations through methods which meet professional and legal standards. The third reason, however, is less justifiable. Put simply, the monitoring and reporting of human rights has somehow become equated with protection, which it is not. Unfortunately, the process of documentation, exposure and advocacy often takes months or even years before appreciable progress is made. During this period, and during periods of transition (that is, from armed conflict to civil society; from lawlessness to rule of law) there is a need for a field-based, integrated approach to protection, and for this to occur there must be leadership.

### Leadership in Protection

To have coordination, you have to have a plan, and to have a plan, you have to have a leader. (Fred Cuny, American disaster expert)

#### *A Focal Point for Protection*

Ironically, despite the fact that widespread violations of humanitarian or human rights law are at the heart of most humanitarian emergencies, there has never been a designated lead agency or focal point for protection. Rather, the emphasis is primarily on the coordination and logistics of relief supplies and activities even though humanitarian assistance is understood by some to include protection, and there is a designated lead humanitarian agency and a humanitarian or 'resident' coordinator.

It is clear there is a need to raise the profile of protection in complex emergencies, to promote ongoing, constructive interagency dialogue on protection issues, and to encourage action to anticipate and address the physical protection (security) needs of civilians under threat through an integrated (multi-agency) creative, field-based approach. Thus it may be time to consider designating an agency or individual as the 'focal point for protection'. The focal point on protection (or 'protection facilitator') would not seek to impose a coordinated response but would serve as a protection resource and would suggest possible protection activities for NGOs and others.

The ICRC would be an obvious choice to serve as a focal point on protection given its vast experience in protection during armed conflict. If the ICRC is unable or unwilling to play this role, however, another organisation could step in in full consultation with the ICRC and UNHCR.

The protection facilitator might:

- Conduct an analysis of protection problems.
- Gauge the interest and expertise in protection available in the field.
- Serve as a liaison between the NGO community and those organisations with specific protection mandates (ICRC, UNHCR, OSCE, formal human rights monitoring missions) on specific field-level protection issues.
- Keep NGOs up-to-date on the protection activities of UNHCR, ICRC and other groups (specific roles, contact information, etc).
- Ensure the distribution of protection-related materials to NGOs and others (that is, UNHCR's guidelines for the protection of women and other useful protection-related documents).
- Develop 'good practice' guidelines for dissemination.
- Bring attention to the need for protection of particular groups or increased protection activities in certain areas.
- Collect information about ad hoc protection strategies developed by field personnel to enable replication in other areas, using discretion where necessary.
- Press for the inclusion of protection of persons under threat or potential threat in the mandate of any peacekeeping or monitoring operations.
- Encourage the development of field-directed activities which might mitigate or prevent abuses (moving beyond the monitoring and reporting of abuses).
- Work toward an understanding of the situation which will permit more accurate predictions of events with the goal of developing or advocating for realistic contingency plans.
- Provide a forum for the regular discussion of protection-related concerns through the development of protection working groups (see following section on Protection Working Groups).
- Serve as home base for a protection strategy team (described below).
- Liaise with peacekeepers, civilian police/human rights monitors and others on practical protection concerns (taking care not to infringe on ICRC or UNHCR mandates, but acting in a complementary or advocacy role) – that is, suggesting increased presence in or around a certain camp or village at a particular time or passing on information from a field-based NGO which has knowledge of an area and anticipates trouble, etc.

- Ensure that information about protection concerns reaches the necessary bodies and, when deemed appropriate, the media.

### ***Protection Working Groups***

The development of regional and locally based protection working groups could enhance protection in the field by encouraging a focus on specific protection problems and alternative solutions. Protection working groups might include representatives of organisations with specific protection mandates, such as UNHCR and ICRC, operational UN organisations, members of human rights or civilian police monitoring missions, civilian–military (CIMIC) liaison officers assigned to peacekeeping forces, representatives of diplomatic missions (under certain circumstances), representatives of local and international human rights organisations, and last but definitely not least, humanitarian relief NGOs working in the region. Linkages with the media could be developed whenever possible and appropriate.

It is envisioned that the protection working group would work through a collaborative and informal arrangement rather than a formal one. It does seem necessary, however, to designate one person or group to convene the working group and serve as a conduit for information.

While human rights coordination groups have been formed in some field operations, an emphasis on practical protection and prevention of abuses is often lacking. Protection working groups could work toward the creation of an approach that would identify and anticipate problems, develop specific plans to avert them, and consider contingency plans.

It is suggested that a network of small, locally based working groups be developed, tied to a centrally located unit. The central unit might consist of a small 'protection strategy team' composed of persons with extensive field experience and a strong protection orientation. The team, which could travel around the region or country on a continuing basis, could share ideas regarding practical approaches to specific protection challenges in the field, drawing on knowledge of previous efforts.

The locally based protection teams could focus on day-to-day issues of protection in the field affecting specific towns, villages, refugee or displaced persons camps, etc. Tasks such as the systematic monitoring and reporting of abuses, information sharing, the training and support of field staff and local partners and, most importantly, the development and implementation of specific field-level strategies, could be part of the working group's agenda. Incidentally, the protection working group does not need to refer to itself as such in situations where the level of scrutiny by those engaging in human rights violations is high.

The field-based protection working group may choose, at times, to make joint demarches to the authorities regarding protection concerns. There are essentially two modes of action that can be adopted: persuasion or denunciation. Denunciation tries to put pressure on the offending authorities to act against their will, and in

doing so creates an adversarial relationship. Persuasion tries to convince the authorities to change their policies and practices of their own accord. Strong statements or protests to the authorities by an organisation or coalition of organisations at the field level can sometimes bring results, but at other times persuasion is more effective. It might be recommended to try persuasion before resorting to stronger protest.

It is suggested that the success of protection working groups could be enhanced by adherence to the following principles:

1. The group must meet regularly.
2. The group must be willing to share information relating to protection at meetings except when doing so would compromise the safety of persons or specific protection endeavors.
3. The meetings should be held in a secure environment, and the need for discretion and sometimes secrecy must be emphasised.
4. The identities of individual protection cases should only be revealed within the group if absolutely necessary, or if the group agrees it is safe to do so.
5. The group should avoid involvement in any activities which may be construed as political. Protection teams may decide to pass information on to human rights or other groups that can publicise information rather than speaking out themselves.
6. Most importantly, the group should focus on solutions and strategies, not just problems.

Local and international organisations interviewed during the war in BiH expressed strong interest in participation in protection working groups. One UNHCR protection officer thought contact with people who could share ideas would be helpful and could alleviate some of the isolation and stress protection officers often experience. ICRC delegates indicated they would be interested in knowing about the protection activities of other organisations, although their direct participation in working groups might be limited. International relief NGOs in Bosnia and Croatia were almost unanimous in their willingness to participate.

Regional protection working groups, which might or might not be based in-country, could concentrate on broader issues such as pressing for the inclusion of protection and accountability mechanisms in peace negotiations, making recommendations for regional human rights or protection guidelines, coordinating advocacy efforts, and developing information-sharing agreements. The regional group would ideally include persons with substantial field experience in armed conflicts and with refugees and IDPs, and at least some members with extensive knowledge of the country involved, so that a wider view of protection needs could be developed, taking into account refugee and regional stability issues. Part of the challenge will be to build relationships between relief organisations and the human rights communities and to explore opportunities for joint political action.

### Focus: Protection Advocacy Coalition

Save the Children International has recently announced, in part on the basis of the recommendations proposed here, the hiring of a staff member to be based in Pristina. This decision was made following a meeting on protection with relief and human rights NGOs in May in New York. This person will examine the roles relief NGOs might play to enhance protection in refugee camps and during the peacekeeping operation in Kosovo. At the time of writing, several other groups have expressed interest in joining this effort in a protection advocacy coalition, at least one of which hopes to field another person to study and promote protection in the field. There are also plans, already underway, to develop a regional protection working group which will have a strong link to the field and will engage in protection advocacy. Hopefully, then, if it comes to pass that there is a peacekeeping operation in Kosovo, there will be an opportunity to implement the concept of protection working groups and test some of the ideas presented here.

### Improving Access

#### *Using Relief Assistance to Gain Access*

In any protection plan, emphasis should be placed, from the inception of the operation, on full and unimpeded access to all areas where civilians are under threat.

Despite recent concerns about the misuse of humanitarian assistance, the use of aid to gain access and increase humanitarian space (the sphere of operations or influence of those engaged in humanitarian work) remains a key strategy in protection. A decision to cut off assistance may result in decreased access to those in need, potentially resulting in serious food shortages, deprivation of medical care, and an increase in civilian casualties due to decreased presence of international witnesses.

The trick, obviously, is to figure out how to negotiate for access while seeking to avoid the support of illegitimate power structures. The concept of the 'least detrimental alternative', may be useful.<sup>7</sup> In a humanitarian operation, the least detrimental alternative may mean making a conscious decision to continue providing aid in order to preserve access (despite the diversion of a percentage to combatants) based upon an informed assessment that the withdrawal of aid and concomitant loss of access are likely to result in greater harm to the civilian population. In other cases the price of access may become so high, and the degree of extortion so great, that humanitarian organisations could not, in good conscience, further compromise principles, especially when the return (the ability to provide adequate aid to those truly in need) has diminished beyond a level which is acceptable. In the case of Goma, some NGOs reached that point when they realised their assistance was enabling the continuation of genocidal killing and was not in fact reaching many of the targeted beneficiaries. A satisfactory approach is likely

to involve a flexible yet clear strategy which places protection at its core.

The degree to which respect for human rights can effectively be pursued through attaching conditions to aid remains an open question. Whereas there have been attempts to condition the provision of aid upon compliance with human rights standards or respect for humanitarian principles, this can conflict – as it does in BiH for example – with the perceived need to invest in reconstruction to give people an alternative to war and a stake in peace. The effectiveness of conditionality will also depend on the value that the conflict entrepreneurs attach to the aid on offer. Last but not least the withholding of aid because of violations by the authorities risks punishing the victims twice.

The best solution is for the international community to demand full and unimpeded access to populations at risk prior to the provision of aid and the deployment of humanitarian, peacekeeping or other internationals whenever possible. The interpretation of ‘at risk’ should include threats to physical security as well as a need for food or medical care. Unfortunately, however, unless the party controlling access derives some benefit from permitting access or faces consequences for denying it, guarantees of access will be difficult to obtain.

When access is limited but not completely blocked the strategic placement of social, medical, and food programmes as close as possible to areas where abuses are occurring may yield opportunities to increase the presence of international observers, improve information

### Focus: Operation Lifeline Sudan

Operation Lifeline Sudan (OLS), the cooperative humanitarian venture in south Sudan, based its operations on negotiated access with the government. This arrangement, however, was according to a key participant both its greatest strength and greatest weakness. Negotiated access, on the one hand, enabled humanitarian organisations to reach vulnerable populations to which they had previously been denied access. At the same time the agreement did not prohibit the government from denying access: obviously few governments would agree to an open access policy without significant international pressure unless they believed the arrangement to be to their advantage. In Sudan, the prohibition against access to Sudanese People’s Liberation Army (SPLA)-controlled areas within the Nuba mountains (an area of extreme concern due to humanitarian need and human rights abuses) for example, was not overcome. Humanitarian organisations were also denied access to a displaced persons camp during a cholera epidemic. Rebel groups also denied access to OLS citing ‘security considerations’, an excuse familiar to human rights and humanitarian workers denied access to endangered populations in Central America, the former Yugoslavia and other regions (Levine, 1997).

gathering on abuses, and allow for the development of more direct protective interventions. The gradual, ‘quiet’ introduction of outreach programmes can serve to extend presence in a manner which may be less threatening to those in control. The supervision of distribution is another important potential strategic tool. Frequent visits to distribution points by staff trained to observe the human rights situation can provide useful information and help establish civil relations with checkpoint guards, local leaders, police, and military units. These contacts may become critically important during periods of heightened tension.

### Official Documents

Agreements relating to access made during high level negotiations often break down in the field. Local authorities, checkpoint guards, and others may not be not aware of or may claim ignorance of agreements reached at higher levels. Soldiers and police, especially if not well trained or if functioning under a loose informal structure, may make arbitrary decisions on the spot about what will or will not be permitted. Nonetheless, most soldiers, bureaucrats and line police officers do not wish to incur the displeasure of their superiors by creating a diplomatic problem. Official documents that bear signatures and seals or stamps may impress such persons. Field personnel can take advantage of this by carrying copies of signed agreements or other documents into the field to be used as needed. It is important to have local and international language translations of pertinent documents available for use in the field.

An experienced ICRC veteran warned, however, that given the lack of discipline in many guerrilla-type groups these authorisations are sometimes worthless. ‘You can’t deal with Liberia the way you dealt with a classical case during the Cold War’, he told the *Washington Post* (Hockstader, 1997). ‘In Liberia, the fact that you’re issued an authorization by some faction leader is meaningless. It doesn’t get you anywhere. As soon as you’re physically remote from him, his own guys will say, “Stuff your letter, give us what’s in your car”’ (ibid). Despite this, there are situations where such authorisations may be successful. It is important to think through carefully what kind of letters might be helpful. Letters from embassies or consulates of neutral countries (or countries perceived by the party at the checkpoint to be friendly), well-known neutral NGOs, influential individuals or clergy, and others may be effective ‘passports’.

### Behaviour at Checkpoints

The failure to behave assertively at checkpoints in BiH was a major cause of poor access to areas. If checkpoint guards think field officers will not insist upon the observation of agreements, they are not motivated to let the next person through. ‘It is absolutely critical to have the expectation that the authorities adhere to agreements they have made’, noted a UNHCR protection officer. ‘When one convoy leader backs down from a checkpoint, it affects everyone else’s ability to get through that checkpoint.’ One of the most important skills a field officer can have is the ability to remain

## Focus: 'Passports' in BiH

One protection officer in Bosnia, initially denied entry to an area, was permitted to proceed through a checkpoint after flashing an agreement signed by Radovan Karadzic (former leader of the so-called Serbian Republic of Bosnia). In Kosovo, a letter from an Orthodox church official enabled a field team to travel without interference from police in the mid-1990s despite the obviously unusual makeup of the field team (a Serb, an ethnic Albanian, and two Americans). Police were surprised and undoubtedly suspicious, but let the small group through. In Croat-controlled areas of Bosnia during the war, a letter from a Catholic relief organisation was useful at checkpoints. Field staff elsewhere have also used letters of introduction or safe conduct supplied by sympathetic parties whose names or organisations are recognised and respected.

diplomatic, while at the same time refusing to allow petty officials or low-ranking soldiers to establish policy or to undercut agreements made at higher levels.

A protection officer in Bosnia singled out UNPROFOR commanders there as contributing significantly to the problem: 'UN commanders, trained in traditional peacekeeping methods based on negotiation and neutrality, conferred respect on local military commanders, setting insurmountable precedents by negotiating the access of each convoy' (Gentile, 1994; unpub). UN officials routinely requested permission for humanitarian convoys to pass through checkpoints, rather than informing the parties that the convoys would be passing through, even after agreements to respect freedom of movement for international personnel and humanitarian aid were signed (ibid). This was particularly unfortunate given the potential value of intervention by peacekeepers as 'fellow soldiers' to use their influence with local soldiers. Once it is perceived that peacekeepers are likely to back down, however, the level of respect by local forces for the international force drops precipitously.

### *The Distribution of Aid*

Relief and protection organisations should attempt to make joint decisions regarding the distribution of aid in ways which will expand access. Ideally, plans for the distribution of humanitarian aid will ensure the widest possible access and aid will be provided only if there is an agreement that distribution will be fully supervised (thereby permitting visits to warehouses and outlying areas). Relief organisations would be wise to insist on the presence of human rights monitors (as well as peacekeepers or civilian police monitors, if present) in areas of high tension for their own security as well as that of beneficiaries.

It is accepted by most humanitarian organisations that assistance should be determined by need rather than arbitrary ethnic, racial, political or other criteria. It should be noted, however, that the development of programmes to reach those at risk may require a

willingness to assist other populations, even when the needs are not as significant or when people within the population are participating in human rights abuses against minorities.

Obviously, when government or armed forces are engaging in strategies to control or destroy a population through starvation or direct attack, significant access and distribution issues are likely to exist. As demonstrated in Rwanda, BiH and elsewhere, the failure to press hard on these issues from the outset can result in worsening rather than improving conditions. The lead humanitarian organisation should be prepared to offer consultation to aid organisations about ways to increase access and decrease the potential negative effects of aid.

## Assessment and Analysis

Humanitarian emergency assessment teams often do not include specialists in human rights or protection. The interagency team sent by the Department of Humanitarian Affairs (DHA) to Rwanda did not include a human rights expert despite the genocide and ongoing human rights abuses, for example (Cohen & Deng, 1998).

Whenever possible, emergency assessment missions should include a variety of professionals: human rights workers, experts in protection, police with international monitoring experience, experts in gender-related violence, and in cases where peacekeeping troops may be involved, independent observers with peacekeeping experience able to assess the potential role of the military in protection. Team members trained to evaluate protection needs could assist in the assessment of conditions in the place of origin, along the routes taken by refugees and displaced persons, and in their place of destination. Professionals who have been members of threatened groups could provide especially valuable insights into the likelihood of additional population movements and possible interventions given their sensitivity to the needs and perspectives of the population under threat.

Obviously, humanitarian assessment missions are, of necessity, focused on meeting the immediate needs of the affected population for food, shelter and medical care. While members of these missions are undoubtedly aware of many protection problems, in the end protection is overshadowed by the huge logistic and resource challenges a large emergency presents.

For this reason it may be best to consider the dispatch of protection assessment missions linked to other missions. A protection assessment team could focus specifically on protection issues and creative ways to integrate protection into humanitarian efforts. Such a team could also serve to highlight the need for protection and get it or keep it on the agenda of governments and IGOs. To cite a recent example, such an assessment mission might have been useful in assessing the protection needs of ethnic Albanian refugees in camps along the Albanian border in the Kosovo, as well as those of Serbs and Roma in specific areas of Kosovo upon arrival of KFOR (Kosovo Peacekeeping Force).

After the initial phase of a crisis, the need for assessment will continue as the situation changes and protection needs shift. Initial assessments provide a picture of the problems but ongoing analysis is required in order to respond to changing conditions. It should be noted, for example, that those committing abuses are likely to respond to protection activities by developing strategies to defeat them, requiring new responses by those attempting to stop them.

The point of assessment is to enable planning. Without the necessary analysis and attempted prediction based on that analysis, there can be no planning. During the assessment phase, the following questions (among others) might be asked. The specific tasks associated with these questions is noted in parentheses:

1. Who is at highest risk? (Identification of special-risk groups within the population.)
2. Where are abuses taking place? (Prevention of attacks in public areas, homes, and while crossing borders.)
3. What does the population under threat propose? (Participation of the population at risk in the development and implementation of protection strategies is an important element of effective protection.)
4. Which international/local organisations present in the field might be effective protection allies? (Participation of NGOs and other groups in the development and implementation of protection strategies, according to mandates and comfort level.)
5. Are people able to access services freely and in a safe manner? Do they know how to contact international staff members in an emergency? (The offices of NGOs and IGOs should be located where they are accessible to at-risk persons and there should be established procedures for the notification of organisations with protection responsibilities of incidents which occur after hours.)
6. During crises, what might be done to prevent the separation of family members? Can this be thought through ahead of time? (Emphasis must be placed on keeping families together and on the speedy reunification of separated families.)
7. How can the protection of women be addressed? (Ensuring staff awareness of the protection needs of women, placing an adequate number of women staff members in programmes that give them close contact with vulnerable women, etc.)
8. Where should staff be deployed and what skills will be needed? (strategic placement in the field of an adequate number of staff with knowledge of protection issues.)
9. What should field personnel do when they observe or become aware of abuses? (Field personnel should be provided with specific information about who to contact and how to contact them in case of abuses.)
10. What will newly arrived field staff need to know? (The relay of information from those going out to

those going in is critical. Briefings/debriefings should be routine and sufficiently detailed to cover protection practices.)

11. Who is carrying out the abuses and what are their weak points? What is the 'modus operandi'? (It is critical to attempt to anticipate the behavior of the perpetrators in order to develop strategies which will thwart their objectives. The perpetrators are likely to try to defeat any strategy developed.)

## Presence as Protection

The equation 'presence equals protection' does say the right thing, but it doesn't say enough. International presence alone will not bring protection. The presence must be conscious, forceful, courageous. It must be an engaged presence that is not afraid to resist injustice and cruelty (Bill Frelick, US Committee for Refugees).

### *An Engaging Presence*

'Practice wisdom', knowledge based upon practical experience, holds that the mere presence of witnesses has a deterrent effect upon those committing human rights abuses. Certainly, it is true that the absence of outside observers provides the opportunity to commit abuses with impunity. For example, according to Human Rights Watch's 1993 report on human rights in UN field operations:

The lack of a UN presence on the ground (a critical element of the protection in northern Iraq) has allowed serious abuses to accelerate in southern Iraq. UN relief agencies, which might have acted as informal human rights observers, have refrained from pressing for access to the populations in southern Iraq that are most at risk. ...while the UN insisted on deploying monitors of Iraqi weaponry, it has so far failed to heed [the plea of the Special Rapporteur on Human Rights for Iraq] for monitors of Iraqi atrocities (Human Rights Watch, 1993a).

Unfortunately, perpetrators catch on only too quickly to the fact that no one is likely to stop them and that the presence of humanitarians represents no threat to business as usual. Presence without an action link – a specific response to abuses in the field – represents a wholly inadequate response.

Interviews with ICRC and UNHCR field staff, NGOs, refugees, and minorities at risk in wartime BiH confirmed the view that international presence is considered a precondition for the adequate protection of civilians. Ideally, they said, presence would include multinational observers such as UNHCR as well as the ICRC, human rights organisations, the press, and international NGOs. Passive presence – simply being there – was viewed, however, as insufficient to prevent abuses: the presence of international observers did not prevent the shelling of civilian areas, the continuation of ethnic cleansing, interference with the distribution

of aid, or the massacre of thousands of men and boys in Srebrenica in July 1995.

The peacekeeping mission in Kosovo (KFOR) has an opportunity to alter this pattern. Given the peacekeeping presence, ethnic Albanians deported or expelled from Kosovo are already returning, but with the expectation that the peacekeepers will protect them from direct harm. If any Serbian military or police forces remain in, or return to the province, and the Kosovo Liberation Army (KLA) continues to arm and mount attacks against non-Albanians, KFOR will face ongoing serious challenges. Further, there will be continuing tension between their duty to inhabitants and risks to peacekeepers themselves.

Ethnic Serbs, at the time of writing, were already fleeing the province in fear of retaliation by the KLA. Some abuses of ethnic Serbs were reported after the arrival of the peacekeeping forces in June. The presence of NGOs and IGOs, if strategic, may prevent some abuses, but to a limited extent. Still, more presence is better than less, as those under threat in BiH asserted. Minorities in danger in BiH were unanimous in the perspective that any international presence was better than none.

#### ***Personality and Approach of Field Delegates***

There seems to be a clear link between the personality and approach of field personnel and their effectiveness in protection work. Although some people seem to have natural ability and a confidence that lends itself to protection work, effective field officers regularly employ skills such as conflict mediation, stress management, negotiation, and assertiveness – skills which can be taught.

The most successful protection advocates tend to be people able to intervene assertively on behalf of those at risk without alienating those in power, who remain calm under stressful conditions, are action-oriented but not impulsive, are clear communicators, and can read the situation well enough to know when to push issues and when to use restraint. They are persistent, clear, and do not allow themselves to be led around in circles. Minorities under threat were of the opinion that the most effective field personnel were those who exuded confidence and authority and did not demonstrate fear of the authorities.

Diplomacy and tact are also key skills in dealing with authorities. Protection officers agreed it would be helpful for field staff to receive training in negotiating and communications skills. 'It is important to be able to listen and to find a way, to figure out what someone wants and how they can be persuaded', a UNHCR officer in Banja Luka (a town under Bosnian Serb control) asserted during an interview in 1994. 'The more hard line we were, the less the authorities wanted to deal with us.'

### **Focus: Presence in Rwanda**

In Rwanda, as the genocide began, the vast majority of internationals fled the country. Rwanda historian Gérard Prunier gives the following account:

Apart from a handful of missionaries and devoted secular humanitarian workers such as Marc Vaiter, who managed to keep his orphanage open throughout the battle of Kigali, the whites were in full flight. Probably less than thirty of them were left in the whole country, a factor which was to make the massacres easier, far from prying Western eyes (Prunier, 1997).

The presence of those few humanitarians who remained on the ground was then used as an excuse for waiting to intervene 'so that they [the UN and governments] could finally intervene without any political or military risk' (Prunier, 1997). Generally speaking, policy-makers do not routinely express concern about the fate of young aid workers facing hardened killers in the field or unarmed 'verifiers' sent to confirm what is often already known. Thus, the expression of concern for aid workers by the international community during the early stages of the Rwandan genocide seemed disingenuous.

Presence without action may be construed as complicity by the victims, or may build false hopes for protection. Worse, perpetrators may interpret passive presence as a green light to commit abuses.

...on 21 April the [UN] had voted to reduce the size of the UNAMIR military mission by almost 90 per cent to 270 men. Of course one could say it did not matter anyway, because their restricted mandate had obliged the Blue Helmets to watch helplessly as people were being slaughtered before their eyes. Militiamen quickly understood that they had nothing to fear from these toy soldiers and that the worst atrocities could be committed in their presence with total freedom from interference (ibid).

The withdrawal of troops was disastrous as well, however: 'The message to the killers was that the international community did not care and that they could carry on with their deadly business without fear of intervention or even disapproval' (ibid).

These types of scenarios have been repeated so often that those planning or committing widespread violations of humanitarian law in recent conflicts must be conscious that the international community is not likely to take decisive action to stop them. Further, they have undoubtedly grasped the fact that even the presence of international observers in-country need not interfere significantly with their activities.

## Focus: The Need for Conscious Presence

A communiqué dated 24 May 1999 from a human rights activist in Belgrade who courageously visited the Kosovo province several times since the bombing started reads: 'After mass expulsions of Albanians from surrounding villages, the targets have now shifted to doctors, professors, lawyers, political activists and Albanians who worked for the OSCE or rented their houses to OSCE personnel. They are questioned by police and then expelled to Albania by force...Some of the expelled sent signals they were safe...others disappeared leaving no trace behind...Everybody fears paramilitary groups, unmarked cars, police questioning, possible expulsion, and, as of late, hunger...They do not know what to do. If they go, this will mean leaving behind their homes, property, and the town they love. If they stay, all they can expect is humiliation. If only there were some international organisation in the area, they say, they would feel more secure and this would give them strength to persevere and stay there.' A western journalist reported, 'You know, I could hardly do a scientific poll, but the Albanians I spoke to who remain inside, they do want a foreign presence, and they want a foreign presence with some force behind it. But frankly, who that foreign presence consists of, they are entirely indifferent. They simply want people between themselves and the Serbs, and whether they're Irish or Fijian or Russian or British or American, I don't think people really care. They would just like this to end in a way that gives them some degree of justice and gives them some degree of security so they can stop feeling afraid' (Farnsworth, 1999; online report). While international presence may decrease abuses initially, however, they may quickly resume in the absence of a 'conscious, forceful, and courageous' presence.

### ***Accompaniment***

Accompaniment refers to a strategy where foreigners provide unarmed, protective presence to those under threat. At times, accompaniment involves a round-the-clock effort for lengthy periods of time. Peace Brigades International (PBI) has used this strategy in Guatemala, El Salvador, Sri Lanka, Colombia, Haiti, North America, and elsewhere. PBI has also participated in joint projects with other NGOs in the Balkans and Chiapas, Mexico.

PBI's mission is to 'provide protective international accompaniment for individuals and organisations who have been threatened by political violence or who are otherwise at risk'. PBI works closely with local human rights or political activists, but refrains from advising them on how to conduct their activities. Accompaniment, as described by PBI, can involve many activities, including providing 24-hour escort, being present at community events, holding vigils, and so on (PBI, 1998a).

PBI's volunteer staff members 'are trained in nonviolence and all are committed to political neutrality during their service. They serve as human shields, and especially, as restless eyes and ears, armed only with a camera' (Wiseberg, 1991).

### ***Reaching Out to Threatened Minorities***

This tactic is related to both presence and accompaniment. Some international aid workers choose to reside in areas where tensions are high.

Many NGOs hire staff from at-risk minority groups in order to shield them from abuses. While this is often a successful tactic, local staff members of international organisations may be targeted for abuse or interrogation during or following operations. In Kosovo, ethnic Albanians who worked for the OSCE verification mission (the KVM, or Kosovo Verification Mission), provided housing for KVM personnel, or even served them in restaurants, were among the very first killed, detained or harassed once the air strikes began. Many of their houses and businesses were immediately ransacked or destroyed. Personnel and other files were in some cases left behind

by organisations during the evacuation, and the information in those files increased the risk to local staff. (This also occurred during air strike evacuation in BiH, and it was later confirmed that the local authorities immediately searched sensitive files.) According to reports from the field as late as the end of May 1999, Serbian security forces were still seeking out such individuals. Monitoring organisations, NGOs and others should attempt to anticipate and prepare for such emergencies, and should develop contingency plans for the protection or evacuation of those local staff in their employ. It is unconscionable to fail to consider the possibility of increased risk to local employees and make the necessary arrangements for their safety by whatever means possible.

### ***Increasing Official Visits***

Visits by high-ranking officials, strategically timed, might also deter human rights violations or decrease the intensity of attacks. Non-Serb community leaders interviewed in Serb-controlled territory during the war warned, however, that local authorities sometimes increased the level of violence to reassert their control after visits conducted during the conflict. Nonetheless, they insisted that officials visit in order to demonstrate their concern regarding the human rights situation to the authorities, believing this was important over the longer term. They stressed that international officials inform the authorities that retribution against non-Serbs following their visits would not be viewed favourably.

## **Strategic Intervention**

### ***Strategic Placement of Relief Programmes***

Humanitarian relief and development organisations are often present before serious violations occur and may be able to predict with some accuracy where outbreaks of violence are likely. In areas where there is a high level of tension but violence has not yet erupted, the presence of international organisations working at the grassroots level may provide opportunities to influence moderates and to develop relations with authorities that could save lives in the future.



## Focus: Accompaniment

In Sri Lanka, PBI volunteers accompanied human rights activists, trade unionists, students, and returnees and were asked to monitor elections. The presence of PBI was initially requested to help prevent the assassination of lawyers who had accepted cases concerning disappeared and detained people (PBI, 1998b). The use of accompaniment in combination with other protection strategies was very effective in Sri Lanka, where international accompaniment played an important role in the (albeit varying) success of open relief centres. (Open camps designed to provide temporary shelter to villagers under threat during periods of high tension which enabled villagers to retain a foothold in their homes of origin, returning when tensions subsided).

PBI often attends demonstrations or gatherings to provide a visible presence in order to discourage abuses. In Guatemala, for example, PBI volunteers handed out leaflets to tourists, asking them to be present at a strike so that the authorities might be less inclined to send forces to crush it. The strategy proved effective, because the would-be assailants hesitated to attack people in front of foreign witnesses. While foreigners were present, no action was taken. When they left, however, the strike was broken (Wiseberg, 1991).

In Haiti, PBI joined with eight US organisations to form the Cry for Justice Coalition, placing more than 70 volunteers in Haiti between September and December 1993. In December 1995, PBI began a long-term project in Haiti, engaging in similar strategies to protect individuals. On election day in Jeremie, for example, a PBI team accompanied a Roman Catholic bishop who had received repeated threats due to his calls for the disarming of paramilitaries and the defense of the rights of Haiti's poor. The Justice and Peace Commission in Haiti suggested PBI volunteers accompany witnesses of violence to help them overcome their fear of testifying before tribunals (PBI, 1998c).

The US Consulate in South Africa physically accompanied a former prisoner of conscience from Venda Homeland who had nearly been tortured to death in prison. Amnesty International (AI) had invited him to the US to speak about human rights conditions in South Africa, but feared he would be arrested upon his return or would come under attack. AI requested the US Consulate to be at the Johannesburg airport when he arrived. The consulate then gave him safe escort to his homeland.

During the war in BiH, UNHCR protection officers sometimes extended protection to minority community leaders living behind the front lines of a majority ethnic group by accompanying them at critical times. On one occasion, after Bosnian Serb authorities destroyed the 400-year old Ferhadija Pasa Mosque in the city of Banja Luka, a UNHCR protection officer sat all night in his car outside the home of the mufti (religious leader of the Muslim community) to protect him.

In Croatia, volunteers with *Otvorene Oci* (Open Eyes), an organisation affiliated with PBI, were present when the Croatian military and/or police attempted to evict Serb citizens of Croatia from their apartments, successfully preventing some evictions.

Following the signing of the Dayton Peace Agreement in BiH, the OSCE accompanied members of opposition parties, religious leaders, human rights workers and others across the inter-Entity boundary line (IEBL) in order to encourage inter-ethnic communication. An inter-Entity bus service established by UNHCR provided the opportunity for thousands of Bosnians to visit their relatives or homes during the long period following the peace agreement when private travel was unsafe. The UNHCR bus drivers were initially internationals (mostly Danish). Local drivers would have been stopped and harassed, attacked or arrested – but the Danes succeeded at getting across the IEBL and through checkpoints. Without accompaniment, it would have been next to impossible for minorities to travel to majority areas due to the failure of the parties to respect the right of freedom of movement promised under the Dayton agreement.

Relief and development programmes offer a way to begin discussions, building a foundation to address protection issues. Once a foothold is established, the expansion of operations during periods of heightened tension may be possible – for example, the authorities may tolerate more frequent visits to food and medicine distribution points

A number of questions must be answered in the planning phase of relief operations which are aimed, in part, at addressing protection needs:

- Who are the people at risk?
- Where do they live?
- What kinds of programmes are the authorities most likely to accept?
- What kinds of services does the local population need or want?
- Who are the project's potential local implementing partners?

- How can the support of the local community for such a programme be enlisted?
- What kinds of protection-related activities might such a programme allow?

Authorities often tolerate the presence of medical personnel, social workers, mental health professionals, clergy, and others in social service or health-related fields. Such people may gain access where others have been denied. They can make inquiries based on their professional concern for individuals and obtain valuable information not available through more formal inquiries.

Because social and medical programmes provide justification for daily access to the field, staff of these programmes are in a unique position to develop alliances and networks and to observe changes in the human rights situation. Social programmes focusing on services to the elderly, women, or children often seem to be less

## Focus: The Charismatic Approach

A commanding, confident appearance clearly influences response. Raoul Wallenberg, the famous Swedish diplomat who rescued Jews in Hungary during World War II, was always well dressed and presented himself as a confident, even imposing figure – his demeanor and sheer determination saved many lives. He bluffed soldiers and officials into releasing their intended victims into his custody even when he had absolutely no official authority from his government to take such action and was acting completely alone. During a roundup of Jewish women in Budapest, a witness saw Wallenberg protest directly and in person to the leader of the Arrow Cross that the women were under his protection:

They argued with him, but he must have had incredible charisma, some great personal authority, because there was absolutely nothing behind him, nothing to back him up. He stood out there in the street, probably feeling the loneliest man in the world, trying to pretend there was something behind him. They could have shot him there and then and nobody would have known about it. Instead, they relented and let him go [with the women] (Bierman, 1981).

The authoritative approach was not always the way to play it, however. As Göte Carlsson, a Swedish Consular Officer, told Per Anger, Wallenberg's colleague and author:

One night, I had a call from a very clever secretary of Wallenberg's . . . She told me her whole family had been seized by the Arrow Cross. . . We drove [to the Arrow Cross headquarters] and got to the chief. He was a man of a sort it would do you no good to shout at. Instead, I treated him with great politeness, more or less on the order of 'between us diplomats.' I continued, in my spiel, that he was such a highly placed person that he had the authority to release the Jews who had mistakenly been arrested. I remember that, at a psychologically threatening moment in our discussion, I very politely asked him for a glass of water, whereupon he brought out wine, which I praised. Gradually, he came around to agreeing to release the seven Jews in question but wanted a receipt for them, just for form's sake. My secretary – I had introduced the woman as such – typed out a receipt saying, 'On behalf of the Swedish Legation, I hereby acknowledge the receipt of 7 Jews,' [and put the] date, the Legation's seal, and my name below. Their faces were thoroughly battered, they had long lacerations, they were bloody and scared. But there was no time to discuss such matters. The man began to look as if he was regretting his decision. I quickly counted 1-2-3-4-5-6-7. Fine! I stood them in a line and commanded them to 'forward, march!' We walked past the submachine-gun boys at the door. In some incomprehensible way, I succeeded in packing all seven in the car and driving away (Anger, 1996).

threatening to the authorities, especially if services are available to all in need rather than only to those at risk for human rights abuses.

Programmes that have a home-visit component or a strong community-based service delivery system make it possible for staff members to have contact with isolated elderly, minorities or other vulnerable populations. Examples of such services include soup kitchens, senior citizen centres, programmes that provide meals or medical care to elderly people or invalids in their home, women's centers or clubs, kindergartens or day care centers, and special health clinics for the elderly, women, or children. If this approach is to be effective, international staff should be present, on a daily basis if possible, in areas where serious protection problems exist. Programmes should serve a diverse group of people, based on need. Such programmes, when they assist those who are maligned or persecuted, can be models of tolerance for the community. Obviously some organisations may choose to operate quietly due to risk of retaliation toward beneficiaries and/or staff.

### *Protection During the Post-conflict Period*

After a ceasefire or peace agreement has been reached, attacks upon civilians may decrease in intensity or geographic concentration but not cease completely. Those who perpetrated abuses may retain considerable power

or influence. Legal systems are generally not functional, or serve certain groups to the detriment of others. Under these conditions it is unlikely that timely, effective action will be taken by the authorities to protect citizens who are under threat due to ethnicity, religion, or political affiliation – or because they challenge the power elite.

Despite the challenges presented during the transition to civil society and rule of law, however, the transition period may provide an important and perhaps unique window of opportunity. First, a decrease in military or police activity means the environment is already considerably safer for civilians and field personnel. Access is probably substantially improved, and there may be a high degree of international attention focused on the country so the authorities may wish to be viewed in a favorable light. Thus their willingness to cooperate may be at a high point. Further, the environment is a rapidly changing one which can be influenced. What internationals do during this period can greatly affect – negatively or positively – what will transpire throughout international involvement in the peace process.

The failure to deal decisively with violations of international law pertaining to human rights or obstruction of implementation of the peace agreement during this period will seriously hamper ongoing efforts

to establish rule of law. The issue of impunity stands out as a major inhibiting factor, if not the primary one, in progress toward respect for human rights, peace, and reconciliation. International organisations must bring attention to the need for accountability, find ways for

victims to safely tell about their experiences, and identify members of the community who might join the human rights cause or contribute to improving protection in the practical sense. In the meantime, vulnerable members of the community must be provided physical protection.

### Focus: Relief as Protection

One of the best examples of the way relief can be used as a protection strategy is the work of Wallenberg and others during World War II.

Wallenberg was now setting up hospitals, nurseries, and soup kitchens throughout [Budapest], buying food, medicine, and clothing with the unlimited funds available to him through the American Jewish Joint Distribution Committee and the War Refugee Board. The International Red Cross belatedly followed suit. Wallenberg also initiated coordination of all neutral relief and rescue efforts by organizing a joint committee of heads of mission (Bierman, 1981).

Recognising the value of strategic placement of aid operations, Wallenberg used legitimate relief activities to put his operation in the middle of things in order to provide daily contact with civilians at risk in the field and to keep a watchful eye on what was going on. Wallenberg's actions were rescue rather than relief based – he used relief programmes to launch rescue programmes. He issued protective passes, hired people at risk, set up safe houses, and intervened directly when roundups or other crises occurred. The joint committee functioned essentially as a protection working group, coordinating interagency action.

Meanwhile, in occupied France, Varian Fry of the Emergency Rescue Committee was doing the same thing – while providing services for refugees he ran a discreet operation to assist Jews in danger, ultimately rescuing numerous people, among them the famous artist Marc Chagall. Fry was an unassuming young man who 'had he known from the outset what odds we were up against, might never have achieved what he did', according to someone who worked with him in France (Fry, 1945). Fry established a network of 'protection allies'.

A doctor Fry befriended helped persons avoid capture when they were in danger of being caught by the Gestapo without residency cards by writing excuses stating they were seriously medically ill during the time they should have applied for the cards.

Such methods might be frowned upon today and even considered by many to be out of the realm of appropriate behaviour for humanitarian and human rights/protection professionals. Nonetheless, there were and are circumstances when, despite concerns about loss of credibility and access, drastic action is both necessary and appropriate.

Incidentally, the Emergency Rescue Committee became the International Rescue Committee – today a well-known and highly respected humanitarian organisation.



# 3

## Protecting Endangered Groups

### Vulnerability

In any given human rights or protection crisis, specific groups and specific individuals within those groups are targeted by those perpetrating abuses. ‘Targets’ may shift within a particular crisis, meaning that vigilance is required in order to anticipate and prepare for attacks on new targets. There may be a hierarchy of targets, with different sets and subsets.

Thus a range of protection strategies must be considered and then tailored to meet different protection needs. Some protection strategies and issues for individuals are described below, followed by strategies useful for certain vulnerable groups, followed in turn by a description of strategies which may be effective for either. The strategy of protective documents/passes has been particularly effective in several contexts and is therefore discussed in some detail, drawing on the work of Raoul Wallenberg, the famous Swedish diplomat who saved thousands of lives in Budapest during the Holocaust.

### Individuals at Risk

When humanitarians speak of vulnerable groups or populations they are often referring to women and children – or, less frequently, the elderly. It is important, however, to think about other groups in need of protection as well.

[T]he human rights of the average citizen are in much greater jeopardy when civil rights lawyers are killed with impunity; the threat to the unknown

laborer rises dramatically when trade union leaders are ‘disappeared’; and peasants or indigenous peoples fighting for land rights are more likely to be brutalized when their spokespeople are arrested and tortured (Wiseberg, 1991).

Moderate community leaders, human rights workers, dissidents, independent journalists and other members of civil society are often in need of protection. Realistic offers of protection assistance, based upon specific action plans, might encourage such persons to express their views. Obviously, it is usually impossible to give guarantees of safety. International or local NGOs can decrease the sense of helplessness and isolation often experienced by those under threat, however, through frequent and ongoing communication, public support when requested, demarches to authorities regarding the safety of individuals, accompaniment (discussed in section on presence), case following and so on.

Some groups are not vulnerable in most situations but are extremely vulnerable in others. In the former Yugoslavia, for example, male civilians of draft age are more likely to be detained, tortured, summarily executed, or disappeared than persons in any other group. The need to protect males who are of draft age may seem counterintuitive, especially since draft-age males may alternate between civilian and combatant status. Most mass killings in the former Yugoslavia have been carried out against unarmed or disarmed men, however – in other words, persons who were either civilians or *hors de combat*, both specifically protected under IHL.

### **Case Following**

Case following involves keeping track of the welfare and whereabouts of particular individuals at risk, such as human rights activists, trade unionists, journalists working in the independent media, members of political opposition parties and others who are challenging those committing the abuses. The strategy may include informing the authorities that there is concern for the safety and protection of these individuals and reminding them that it is their responsibility to protect them. In situations where the authorities are committing human rights abuses or are not deterring others from committing them, notification serves as warning that action will be taken if anything happens to the individual. Some field delegates have gone so far as to tell individuals, such as chiefs of police, that they would be held personally responsible for mistreatment of protected people. Case following may be enhanced through the use of photo files (see next heading).

In Sri Lanka, as of 1995 the police and other officials must issue a 'receipt of arrest' to relatives when they take someone into custody, noting the person's name, time and place of arrest, the arresting authority and location of detention. This is part of an effort to prevent and reduce the number of disappearances. The in-person appearance of advocates at places of detention on behalf of detainees can be an extremely effective way to prevent abuses in detention. Generally speaking, when arbitrary arrests and detentions are occurring, the sooner an intervention can be made the better. Having the names of persons in custody, whenever possible, adds weight to the visit as it demonstrates a high level of knowledge about what is happening and decreases risk to those individuals. Visits to detainees should only be conducted following consultation with those organisations with the specific mandate to visit detained persons (if present in the area). In situations of armed conflict the ICRC has primary responsibility for the visiting and registration of detainees. Because the ICRC has strict standards of visitation and may be involved in ongoing negotiations with the authorities, well-meaning persons who visit detainees may inadvertently lower standards of visitation thereby increasing the risk of mistreatment. For example, if a visitor agrees to see someone under the supervision of prison authorities, is not permitted to see other areas of the prison, or is permitted to visit only one person, this may undermine the ICRC's efforts to establish regular access to all detainees and to speak with detainees in private (often the only way one can learn of mistreatment). The ICRC has, in some situations, established memoranda of understanding (MOUs) with other organisations which clarifies roles and responsibilities.

It is known that registration by the ICRC greatly lowers the risk of summary execution or disappearance, therefore the ability of the ICRC to register all detainees as quickly as possible must be carefully preserved. The importance of this cannot be overstated. The peacekeeping agreement in Kosovo does not contain specific provisions for the visitation of ethnic Albanians detained in Serbian facilities, a situation which is very serious and has created

terrible anxiety for the families of those missing. The ICRC have not been given lists of detainees by the Serbian authorities and families are unable to confirm that their relatives are being held. There are also reports of persons being kidnapped by the KLA since the arrival of KFOR.

Amnesty International and other groups use one of the most effective methods of case following: mobilising urgent action networks, letter-writing campaigns, and other efforts on the behalf of individual prisoners. While these acts often take place outside the endangered person's country, the methodologies could be adapted by protection working groups in-country, which can work with other groups to create urgent action networks. The arrival of numerous letters, faxes and telephone calls to local authorities may help in some situations, although caution must be exercised to ensure that the risk will not increase as a result of the additional attention.

### **Photo Files**

Photo files are used to document information about specific individuals in danger so that swift action can be taken should they be arrested, detained, or disappeared. As noted above, interested parties may in some cases choose to make the authorities aware they are interested in the protection of particular individuals, and that photo files have been created. The strategy usually includes two organisations – one in-country, which creates the photo file, and a second 'trustee organisation', which agrees to take immediate, specific action, as agreed by the individual at risk, in the event of arrest, attack, or disappearance.

The photo file includes a photograph of the individual at risk (suitable for reproduction if possible or ideally, made with a digital camera, enabling transmission via internet) and pertinent personal data, including a physical description and history. A statement by the individual which could be used publicly should an incident occur could be included, if he or she wishes it.

Because the information in a photo file could be misused were it to fall into the wrong hands it should be kept in a secure place, preferably outside the country. The individual may also be given a copy to keep in a safe place. In the event of arrest or detention, a family member or other person (having been previously instructed) immediately brings the photo file to a predetermined organisation or notifies the organisation that created the file to notify the trustee organisation on the outside. The trustee organisation immediately takes action, as has been predetermined and agreed upon by the person at risk.

Photo files can also be used to document property, such as housing, furniture, jewellery, and other valuables. (Forced eviction or confiscation of property by the authorities often leaves victims without any possibility to reclaim their property because they cannot prove they ever possessed it.) Legal documents, such as titles or deeds, can be kept with the photographs. This documentation should also be placed in a safe place, preferably with a third party. It is helpful to have an affidavit signed by a witness attesting to the ownership of the property as well.

Although the documentation will not stop the theft or destruction of property, it could be effective in making claims for reparations or compensation later.

Photo files could be created by UNHCR protection staff, NGO staff, local lawyers, human rights activists/monitors, civilian police monitors, and other interested parties.

**Collegial Support and Invitations**

Distinguished international colleagues of a person may enhance the protection of a person at risk by bringing his/her plight to the attention of the media and others. Fact-finding missions or visits to the persons led by noteworthy professionals might serve to provide additional protection. One must be careful, however, that the visit will not increase the risk to the colleague; therefore planning must include the at-risk person's assessment of how and when to conduct such a mission.

For front-line human rights activists under threat, invitations to become fellows or visiting professors at prestigious universities may also be helpful. Justice Ebuha Lihau, formerly the Chief Justice of Zaire and one of the main critics of former Zairian President Mobutu Sese Seko in 1985, was ill and in internal exile when he received an invitation to be a visiting scholar at Harvard, making it possible for him to leave the country (Wiseberg, 1991).

**Women and Girls**

The conflict in BiH brought long-overdue attention to the victimisation of women in war, but a wide gap still exists between recognising the problem and actually protecting of women. Even in Bosnia, despite all the reports of rape, humanitarian organisations were initially inclined to downplay the issue rather than address it (Siefert, 1994). Later, ironically, organisations competed with one another to start new programmes to treat the traumatic aftereffects of rape, but did not put forward the same energy to demand a stop to the rapes or to help women trapped behind the lines in hostile areas to escape. An atmosphere of fear and mistrust inhibited reporting in many areas, especially in Bosnian Serb areas where few NGOs were working. Had more NGOs been present, women might have found a way to report rapes without placing themselves at further risk, especially if those NGOs were aware of and concerned about the problem. Strategies might have then have been developed to protect women through evacuation by UNHCR or other measures.<sup>8,9</sup>

Continued public attention to crimes perpetrated against women during armed conflict, and the further development of accountability mechanisms such as the International Criminal Tribunals for the former Yugoslavia and for Rwanda for those who commit war crimes, is critical to the future protection of women.

The law, however, does not pose a sufficient deterrent to rape, and justice after the fact is not enough. An effort must be made to improve physical security for women during armed conflict in practical and expeditious ways.

In-depth investigation of how abuses against women occur during armed conflict will be critical to the development of effective strategies for assistance and

**Focus: Indictment for Rape and Genocide**

In 1997, the International Criminal Tribunal for the former Yugoslavia announced the indictment of eight military and police officers in connection with the rape of women during the Bosnian war. The Tribunal stated on the occasion, 'This is an landmark indictment because it focuses exclusively on sexual assaults, without including other charges. . .it is of major legal significance because it clearly illustrates the court's strategy to focus on gender-related crimes and give them their proper place in the prosecution of war crimes.' In previous courts, rape was treated as a secondary offense. Under certain circumstances, acts of sexual violence can also be a means of committing the international crime of genocide. A conviction for genocide by the International Criminal Tribunal for Rwanda was reached in part on evidence that the defendant had witnessed and encouraged the rape and sexual mutilation of women in the course of the genocidal campaign against Tutsis.

self-protection. Clues about how to approach the problem of rape might come, ironically, from discussions with soldiers. What might combat veterans say about rape and the conditions under which it is committed? Is there a critical period during which abuses are likely to occur or places where rape is more likely to occur? What role does substance abuse play in rape during armed conflict? Is there anything the potential victim can say or do to try to dissuade an individual soldier from committing rape? What within the military culture permits rape to occur and how can that culture be changed or influenced? Work by Ruth Siefert of the Women's International League for Women (Siefert 1993, 1994) and others has provided valuable insights into the whys and wherefores of sexual assault by armed forces, but has shed little light on practical solutions.

Lt. Col Dave Grossman, a former US army Ranger and paratrooper who taught psychology at West Point and is a professor of military science, writes in his provocative book, *On Killing*, that the dehumanisation of the enemy is a major contributing factor to rape and other atrocities committed in combat. Minorities or vulnerable groups serve the role of scapegoats, Grossman explains, 'whose defilement and innocent blood empowers the killers and bonds them to their leaders' (Grossman, 1996).

'Throughout history' Grossman says 'women have been probably the greatest single group of victims of this empowerment process. Rape is a very important part of the process of dominating and dehumanizing an enemy; and this process of mutual empowering and bonding at the expense of others is exactly what occurs during gang rapes. In war, empowerment and bonding through such gang rapes often occur on a national level. . . The thing to understand here is that gang rapes or and gang or cult killings in times of peace and war are *not* 'senseless

violence.’ They are instead powerful acts of group bonding and criminal enabling that, quite often, have a hidden purpose of promoting the wealth, power, or vanity of a specific leader or cause. . . .at the expense of the innocent’ (ibid).

How might NGOs or other groups work to ‘humanise’ women in the eyes of troops before and during armed conflict? The ICRC, which disseminates information to armies all over the world on the laws of armed conflict, includes information about the treatment of women, but is there more that the International Federation of Red Cross and Red Crescent Societies, national Red Cross and Red Crescent Societies and others could be doing pre- and post-conflict to raise awareness of violence toward women during armed conflict? What resources might be provided which would increase the chances for the survival of women should conflict break out? How can the public within a country where such rapes are being committed be mobilised to condemn sexual violence in armed conflict?

Efforts to address the treatment of women by armed forces must be integrated into conflict prevention and post-conflict reconstruction and reform programmes initiated by donors regional mechanisms and international organisations. New armed forces should not only learn about international humanitarian and human rights law but about the application and meaning of the law and public security issues in relation to women. Creative ways to incorporate women and women’s organisations into training programmes in order to ‘humanise’ them must be explored.

Are there self-protection strategies which might be applicable, and teachable, to women during armed conflict to improve their chances of surviving or avoiding rape? Might efforts to humanise oneself in the eyes of the attacker (that is, communicating one’s own name in conversation, attempting to verbally engage him, etc. perhaps decrease the seriousness of the attack?) Despite the apparently huge odds against successful intervention, it is worthwhile to consider every possible strategy.

#### ***Risks During Displacement and Repatriation***

UNHCR has pointed out that women and girls are also at special risk during flight and repatriation. Abuses often occur at checkpoints, borders, and along the road. Women become the victims of ‘pirates, border guards, army and resistance units, male refugees, and others with whom they come in contact. When women and girls are separated from male family members in the chaos of flight or they are widowed during war, they are especially susceptible to physical abuse and rape’ (UNHCR, 1991).

The failure to issue identity documents to women also places them at increased risk, according to UNHCR. Women outnumber men in refugee and displaced persons populations, yet the tendency of international humanitarian personnel is often to provide such documents only to male heads of household. UNHCR suggests the issuance of official identity documents is important for women crossing checkpoints or borders (ibid).

### **Focus: Propaganda in War**

In Rwanda, the dehumanisation of Tutsi women by Hutu extremists included attempts to convince people that Tutsi women saw themselves as superior and were dangerous sexual deceivers and opportunists who were depriving Hutu women of jobs, etc. As Human Rights Watch/Africa reported, ‘Through the written press and the RTLM radio, extremists taught that the two [Hutus and Tutsi] were different peoples... Stereotypes also portrayed Tutsi women as being arrogant and looking down on Hutu men as ugly and inferior...printed graphic cartoons portray[ed] Tutsi women using their supposed sexual prowess on UN peacekeepers’ (Human Rights Watch, 1996).

The propaganda sought to convince Hutu men to be wary of Tutsi women, influencing them to perceive Tutsi women as haughty, poisonous women who needed to be ‘put in their place.’ Through forcible sexual conquest, women who were according to the perception of some Hutu men ‘unattainable’ could be dominated. The propaganda served to degrade Hutu women as well, implying they were unattractive (ibid).

UNHCR’s guidelines suggest that female protection, health and field officers should be assigned to monitor movements of people and should be placed in contact with displaced, refugee, or at-risk women at as many points as possible to enable them to observe the ongoing situation effectively and ensure they are accessible to women who may need assistance. This is important not only to improve the reporting of abuses, but also because the presence of international workers, as previously discussed, might deter abuses. Female interpreters and staff trained in protection issues related to women are another component of a comprehensive strategy.

According to UNHCR, organisations should seek to ‘provide an environment within which women can report protection problems in private and with confidence that there will be no retribution for doing so . . . and ensure the confidentiality of the information being provided’ (ibid).

#### ***Risks in Refugee and Displaced Persons Camps***

As noted previously, the response to violence against women in conflict and in refugee and displaced persons camps is still primarily limited to assisting victims rather than preventing others from becoming victims (Human Rights Watch, 1993b). This reaction by international organisations seems to mirror the feeling of helplessness some victims experience. It is at least possible, however, to decrease abuses in areas where military actions have subsided or in refugee and displaced persons camps. To achieve this, the incidence and patterns of attack must be determined in order to identify which women are at high risk, which areas are unsafe, and which times of day are most dangerous. Once the facts are known and the patterns discerned, practical tactics can be initiated to address the problem at various levels. UNHCR made a significant step forward with its *Guidelines on the Protection of*



## Focus: The Protection of Women in Camps – Tanzania

Research conducted by the Women's Commission for Refugee Women and Children (a New York-based advocacy organisation under the auspices of the International Rescue Committee, IRC) and Human Rights Watch has revealed that the UNHCR *Guidelines* are unfortunately often not distributed, much less implemented, in the field. The Women's Commission looked at the implementation of the UNHCR Guidelines in Mozambique and in Tanzania in 1995. In Tanzania, the Commission found that refugee women from Rwanda and Burundi faced the same problems that Somali refugee women had faced in camps along the Kenyan border two years earlier: women were being sexually assaulted when collecting wood and water. An NGO worker told the Commission that such attacks were so common they were even expected. And as was the case in Kenya, attacks were being committed by government soldiers/security forces who were not well-supervised and did not receive clear directives from superiors regarding their duties. Alcohol abuse and personal gain from robbery was often involved. Young women were often the target of attacks given the perpetrators' desire to avoid contracting AIDS (Women's Commission, 1995a).

The Commission learned that while UNHCR staff in Tanzania were aware of the *Guidelines* and many had copies in their offices, no statistics had been kept on the incidence of sexual violence against women for 10 months following the establishment of the camps. Further, there were only three protection officers stationed in the Ngara camp, two of whom were on short-term assignments (about three months). Most NGO staff knew nothing about the *Guidelines*, and refugee women themselves were unaware that the *Guidelines* existed or that UNHCR had specific policies on refugee women. As had been initially the case in Somalia, the focus in Tanzania was not on the prevention of rape but on treatment for women who had already been victimised. Crisis Intervention Teams (CITs) were being organised to ensure that victims were referred for medical, psychological and legal support, but the CITs were not apparently used to develop strategies to prevent further attacks. On the positive side, the CITs were composed of refugees who were trained to collect data on gender-specific violence. The International Rescue Committee (IRC) also developed programmes to address domestic violence, which was a prevalent problem, and UNHCR cooperated by limiting the hours of operation for bars in the camps, as alcohol seemed to play a major role in domestic abuse. This was an important tactic (ibid).

NGO staff and refugee women in Tanzania expressed strong interest in the *Guidelines*. One NGO sanitation worker, for example, told the Women's Commission delegation that he would use the *Guidelines* in planning the location of sanitary facilities now that he was aware that women were more likely to be attacked when the facilities were located at some distance from the camp. Refugee women interviewed by the Commission expressed the desire to participate in planning and programming to ensure consideration of protection concerns.

The Commission rated refugee women's access to physical security, food security, economic self-sufficiency and other needs and found that physical and food security, as well as access to water and energy needs was rated very low. Interestingly, access to training and programmes which would increase economic self-sufficiency was also very poor, whereas access to healthcare and reproductive health services was good to excellent (ibid).

In the Mukgwa camp in the Kigoma region of Tanzania, however, UNHCR did act to decrease attacks through such practical measures as cutting the grass on a route which women frequently traveled. The organisation also developed an information campaign to inform women about ways they could protect themselves, resulting in an improved security situation (ibid). One UNHCR protection officer told the Commission, 'Protection responses rely on social services programming. . . Early in the life of the camps women were being assaulted as they walked to and from the latrines and from collecting water. One woman was killed by her assailant. We responded by providing women with torches, educating them to walk in groups, and assisting communities in setting up neighborhood watches.' This same protection officer took the initiative to ensure that latrines were placed in safer areas. She recommended that training include community-based service workers and protection officers together to discuss protection strategies, emphasising the *Guidelines* (essentially, a protection working group) (ibid).

While these were extremely positive steps, there was still a failure to implement early on in Tanzania the lessons learned from the experience of Somali women in refugee camps in Kenya. Initially, the response to violence against Somali women was also limited to treating survivors of rape. Later, however, UNIFEM's African Women in Crisis developed a training module for Kenyan military units in an effort to stem abuses and encouraged the placement of a police post near the camps. UNHCR established a programme to plant 'live' fences to discourage incursions into the camp area, and involved the women in developing responses. The number of reported rapes dropped significantly as a result of these programmes (nearly 50 per cent), although it is unclear how many rapes went unreported. Young girls continued to be the primary rape victims, however, and the impunity enjoyed by the perpetrators continued to undermine protection (ibid), (Human Rights Watch, 1997).

In a visit to Mozambique two months following its mission to Tanzania, the Commission again found that very few NGO representatives were aware of UNHCR's *Guidelines*, and none had actually used them as a planning or implementation tool. Further, the Commission reported 'None of the local organisations, nor any of the returnee women with whom we met, were familiar with the *Guidelines*' (Women's Commission, 1995b).

*Refugee Women* in 1991, a document that suggests valuable, practical approaches to the protection of women.

Field-based protection tactics for women in refugee and displaced persons camps include, among others:

- The installation of lights in dangerous areas;
- The strategic location of hygiene, water, garbage and other facilities to prevent the need to walk in unprotected areas;
- The placement of fences or barbed wire (in some remote camps, even thorn bushes have been used with success to keep out intruders);
- Implementation of security measures such as night patrols by security personnel;
- The location of sleeping quarters in protected areas which can be locked;
- Separation of unrelated families in sleeping and communal spaces;
- Special accommodations for unmarried or single women heads of households;
- Full consultation with women at risk when developing protection plans (UNHCR, 1991; 1995).

Analysis of the circumstances under which abuse of women occurs must be translated into action. It is known that retaliatory violence often follows offensives, arrests, assassinations, and other incidents, for example, but contingency protection planning often does not occur. The development and implementation of practical, realistic strategies developed in partnership with women at risk must be a priority in future protection planning. *Guidelines* for the protection of women should be emphasised in the training of all field personnel, especially in training for protection staff and translators.

There is still a long way to go. Not one person interviewed in Bosnia during the author's study of protection in 1994 raised the specific issue of protection of women. In subsequent visits to the region, a gender-specific focus in protection was still missing. Most recently reports have rape of internally displaced women in Kosovo and the trafficking of Kosovar Albanian refugee women in Albania have emerged. Since the fall of the communist regime in Albania in the late 1980s, trafficking of young Albanian girls, to Greece and notably to Italy, has become well-established. Albanians make up two-thirds of sex workers in Italy today. The Albanian mafia now obviously finds new prey among the refugees.

Future efforts should include:

- i. improved investigation of sexual assaults;
- ii. improved educational programmes for women at risk, field personnel and translators to try to prevent abuses;
- iii. warnings to perpetrators with clear consequences for violations (that is, rapid indictment and arrest);
- iv. public campaigns about the unacceptability of rape and violence against women;
- v. new strategies for coping with cultural issues which may interfere with the protection of women;
- vi. increased pressure from NGOs to implement the important, practical, field-based strategies described in the UNHCR guidelines.

The use of radio programmes to inform people about protection problems relating to women might be useful. The BBC in Afghanistan found that radio dramatisations (not unlike soap operas) have been more effective in transmitting information than more formal presentations. The BBC programme *New Home New Life* was successful in preventing land mine injuries and passing on other useful information. Importantly, the Afghan audience took ownership of the programme – the radio format was well-suited to the strong oral tradition of Afghan society (Adam, RRN Newsletter 13).

## Children

There is a lot of discussion about the plight of children in today's armed conflicts, but children remain vastly underprotected. The genocide in Rwanda and the subsequent mass exodus of refugees resulted in a staggering number of unaccompanied children; an estimated 100,000 children were separated from their relatives. According to UN reports, while more than a quarter of these children had been reunited with their families by early 1996, the remainder continued to experience protection problems.

The forced conscription of children as soldiers continues, affecting an estimated 300,000 children worldwide. Despite the increased attention given this issue, however, the international community has not addressed it adequately either in practice or the law. In just one example, Human Rights Watch received reliable reports in the spring of 1996 of the failure to protect from recruitment approximately 100 unaccompanied Sudanese minors taken across the border into Sudan directly from a UNHCR camp in Ethiopia where they had been registered. This was not the first incident involving a UNHCR camp – there had been previous cases of conscription or recruitment of Sudanese boys from UNHCR camps in Ethiopia and Kenya (the removal from the Kenyan camp also occurred in 1996.) UNHCR did not respond to requests from Human Rights Watch for information about measures taken to prevent further occurrences (Human Rights Watch, 1997).

In fact, there are few examples in the literature of practical interventions designed to protect children. The recommendations of human rights and child advocacy groups regarding protection of children usually involve calls for increased public pressure of governments, which is necessary but not sufficient to bring about change quickly.

## Elderly Persons

One of the most vulnerable and neglected populations is the elderly. Infirm elderly unable to flee during armed conflict are sometimes abandoned by family members or stay behind in an effort to retain family property, and thereby become convenient targets for bandits or those seeking retaliation.

An important opportunity to protect elderly at risk was tragically missed in the Krajina area of Croatia following Operation Storm, when Croatian army forces took the

area back from Serb rebel forces in just 36 hours. During that period, the majority of the population fled though hundreds of elderly people were left behind. Over 100 civilians were killed during the first 36 hour period of the offensive. Long after Operation Storm had ended and the area was secured – in fact for months afterward – Croatian forces engaged in serious abuses, summarily executing at least 150 civilians (some estimates far exceed this). A large number of those killed were elderly persons: many were shot in the back of the head; others were burned to death in their houses (according to the UN monitors who found their bodies). The fact that these abuses continued for months despite a substantial UN presence in Croatia is appalling. While the Croatian authorities restricted access during the initial period following Operation Storm, it is concerning, to say the least, that more was not done in the field to press for full access to enable frequent visitation of at risk elderly and to demand an end to impunity for the Croatian soldiers who carried out the abuses. It is known that military advisors under contract with the US government were working with Croatian officers during Operation Storm. While MPRI denies having advised the Croatia military in planning the operation, disturbing questions remain about the failure of MPRI (and the US government) to intervene to demand a halt to these serious abuses or to cut off relations with the Croatia military afterward.

In areas of BiH, elderly minorities were also at high risk. Home visiting programmes established by NGOs to reach these persons might have been a useful intervention tool.

## Returnees

During and after armed conflict, protection must be provided for returnees, and for ‘seed’ or ‘anchor’ communities to which refugees and displaced persons are expected to return. Assessment of human rights and physical protection conditions prior to return and the development of potential protection responses to possible abuses must be given more emphasis. UNHCR has in some situations physically accompanied returnees on their way home. In El Salvador and Cambodia, human rights monitors were deployed during repatriation, and in Guatemala the UN Centre for Human Rights appointed a human rights monitor specifically to observe protection issues affecting returnees (Cohen, 1995).

In Rwandan refugee camps, according to an MSF report on repatriation, the International Organisation for Migration (IOM) ‘regularly went into the camps to pick up returnees who had signed up to repatriate but feared for their safety’ (MSF, 1995).

Those persons who repatriated to Rwanda from refugee camps told MSF they had returned because family or friends told them it was safe to do so. Some returnees reported traveling by foot to determine for themselves whether the situation permitted their return; that is, whether their house was available (ibid). Providing security along routes and/or transportation for repatriation visits, can serve to encourage repatriation – as long as visitors are not met with violence, as has often

been the case in Bosnia. NGOs might perform some of these activities, given the proper support and training.

In BiH, the failure of the parties to the Dayton agreement and the international community to create a secure environment has resulted in few returns of minorities to majority areas, even more than three years after the signing of the agreement. Minorities remaining in majority areas suffered ongoing harassment and expulsion, meaning that seed or ‘anchor’ communities that could welcome returnees and provide some degree of security or reassurance gradually disappeared from some areas. The population had little confidence in the will of the international community to provide security during or following return, given the repeated assertions by NATO and the UN-organised International Police Task Force that their mandates did not include the protection of citizens.

There were some notable exceptions, however. The SFOR (NATO Stabilization Force) Moroccan contingent based in Herzegovina took the initiative in 1998 to protect areas of return around Stolac (near Mostar, the main town in Herzegovina). There has been an organised campaign of destruction of housing in Herzegovina; attacks on returnees have resulted in death and injury. Hundreds of houses have been destroyed. The author, travelling through the area after dark in November 1998, was surprised to see Moroccan troops lining the entrance roads to one village and maintaining a presence throughout the area. In one village, where Bosniaks and Serbs have returned together (to a Bosnian Croat-controlled area), the Moroccan troops essentially ‘adopted’ the village. Their presence has enabled the work of reconstruction and reconciliation between the previous inhabitants to proceed. US troops have conducted similar activities in villages around the northern town of Brcko.

## Increasing Protection

### *Protective Documents/Passes*

Protective documents or passes may discourage abuses at checkpoints, while in transit, or during periods when roundups or arrests are occurring. A protective pass informs the authorities there is outside interest in what happens to an individual.

With few exceptions, field staff interviewed in Bosnia during the war strongly supported the protective document concept. UNHCR protection staff expressed interest in coordinating and issuing such passes, working with governments or others interested in developing such a project. Documents issued by neutral governments or by parties the authorities respect would be most effective, relief workers believed, but UNHCR protection staff thought documents issued by international relief organisations might also work.

The ICRC field perspective was that protective passes could be useful in Bosnia, but only if issued by a protective power or with the promise that another government would resettle people or get them out. ‘There is so little respect for [international] organisations that such documents could even cause antagonism’ warned an ICRC protection

## Focus: Diplomats Taking Action

Perhaps the most successful use of protective documents was in Budapest during World War II, where Raoul Wallenberg worked with others to develop passes to protect Jewish citizens in danger of arrest, deportation, and physical attack by the Nazis, the Hungarian Arrow Cross, and groups of armed thugs.

Prior to Wallenberg's arrival, the Swedish mission had issued 'provisional Swedish passports' which, under certain conditions, were issued to non-Swedes. The legation convinced the Hungarian authorities that Jewish pass holders should be exempt from having to wear the yellow star in public, enabling them to avoid sudden internment and deportation. To avoid 'flooding the market' with such passes, decreasing their value, the legation devised other types of documentation. For example, as a large number of people in Sweden had applied for Swedish citizenship for family members remaining in Hungary, the legation issued certificates indicating that a decision would shortly be reached and requesting that civil and military authorities give full consideration to the possibility that the bearers would soon become Swedish citizens. However, when the Hungarian authorities issued a decree that foreign citizenship conferred after March 19, 1944 (the day of the German invasion of Hungary) would not be recognised, these certificates were rendered useless. While few may have actually escaped using these documents, they were useful in gaining time for persons under threat (Anger, 1996).

Aware of the importance of appearance in dealing with German and Hungarian officials, and of the difficulties with earlier documentation issued by the legation, according to his biographer, Bierman, Wallenberg designed:

an impressive-looking Swedish passport to replace the somewhat mundane certificates so far issued. Here his architect's training in design and draughtsmanship came into play, and the Wallenberg passport was a stroke of genius. He had it printed in yellow and blue, embellished with the triple crown of the Royal Swedish government, and dotted with seals, stamps, signatures, and counter-signatures. Though it had absolutely no validity in international law, it inspired respect, serving notice to the Germans and Hungarians that the holder was not an abandoned outcast but under the protection of the leading neutral power of Europe (Bierman, 1981).

Wallenberg cajoled, bribed and even blackmailed the authorities into allowing him to issue additional protective passes. He even persuaded the authorities to announce on the radio that the passes must be respected. 'Noting the effectiveness of the passports, other neutral missions began to follow suit. Even Franco's Spanish mission in Hungary got into the act, and then the papal nunciature [a papal diplomatic mission headed by a nuncio, the ranking papal representative to a civil government] issued thousands of baptismal certificates and safe-conduct passes for Jews' (Bierman, 1981).

In a unique diplomatic endeavour, the Swiss took over the Hungarian interests of El Salvador at the request of the United States, and provided several thousand Jews with citizenship papers for El Salvador. In fact, there were absolutely no Salvadoran citizens in Hungary, and the Americans were quite aware of this (Anger, 1996).

During periods of intense persecution, the Wallenberg passes were especially valuable. Toward the end of the war, the situation in Budapest became more desperate. Bands of Arrow Cross thugs, some only teenagers, roamed the city, beating, raping, robbing, and killing people, with little or no interference from the police. "Protective passes [issued by others] were often no protection to Jews caught out in the streets by Arrow Cross, but in a surprising number of cases the 'Wallenberg' passes retained their power to impress" (Anger, 1996).

When deportations by train were scheduled, Wallenberg had lookouts who would warn him so that he could arrive at the train station before a particular train left. Informing the Germans that some of the persons on the train appeared on his list of holders of protective passports, he removed a large number of individuals from the train, who (as directed by Wallenberg) produced various documents in Hungarian, documents which the Germans could not read. The ruse worked. (Anger, 1996).

When Jewish citizens were expelled from Budapest on foot and sent towards Auschwitz, Wallenberg organised trucks to follow them, stopping people to find out whether they had Swedish protective passes. Those with passes were placed on the trucks and returned to Budapest. Wallenberg drove on as his secretary, riding along with a typewriter on her lap, typed-out yet more protective passes with false names. Wallenberg distributed as many as he could to people along the way, no doubt saving many lives (Aaron & Harel videotape, 1984). He even went so far as to set up 'humanitarian checkpoints' along the roads and at the border station to hinder the deportation of Jews. Approximately 1500 Jews were returned to Budapest in this way. (Anger, 1996).

delegate serving in Bosnian Serb-controlled Banja Luka. ‘However, people always want some kind of letter. The military wants guarantees that people are planning to leave, so documents could be helpful. We have to ask the question, though, who is going to receive these letters?’

In Croatia, UNHCR issued protection letters to draft-age male refugees in danger of refoulement (forced return to the country of origin). Field staff with another international organisation assisted in collecting the necessary documentation and distributing the letters in refugee camps. Recipients were given duplicate copies of the letters and advised to put them in safe places, since police occasionally tore them up. The letters stated that the person carrying the document was under the protection of UNHCR. A photograph of the refugee was attached, and identifying information such as name, date and place of birth appeared on the letter. Importantly, the letter bore UNHCR’s official stamp. In the vast majority of cases, these letters prevented the arrest and refoulement of refugees who carried them.

The following factors seem to increase the effectiveness of protective documents:

1. A party – a government, organisation, religious or civic group, etc – recognised and respected by the authorities should issue the passes, if possible. The value of such passes increases if the authorities perceive the issuing party as neutral, allied or powerful.
2. The documents should have an official appearance (stamps, seals, signatures, etc).
3. A limited number of protective documents should be issued (distribution should usually be limited to the most vulnerable segment of the population at risk). The documents may lose their effect if too many are circulating. The authorities may become alarmed by the numbers of persons holding such documents or may begin to disregard them.
4. The authorities might be prevailed upon to respect the documents, depending upon who issues them. If the authorities agree to cooperate, and issue orders that the documents are to be respected, the chance for success improves. Agreements can be publicised if it will help ensure respect for the documents by soldiers, police, or officials.
5. Something has to happen if the document is disregarded – action must be taken by someone, somewhere.

One caveat involves the use of documents which identify the ethnicity or religion of individuals. Efforts should be made to discourage such designations when identity cards are being issued by authorities or others. At the same time, there are examples of false documentation of ethnicity or religion being used to protect persons. For example, baptismal certificates were issued to Jewish persons by a few enlightened Christian clergy during WWII. In a twist of history, a Jewish citizen in Bosnia during the recent war issued certificates of Jewish ancestry to minorities under threat of internment in detention camps. The local

authorities did not question the papers: they did not want the world Jewish community to accuse them of anti-Semitism (Paul, 1997).

### ***Strengthening Capacity for Self-Protection***

People at risk often have the best ideas about what protective actions might be most effective. They will devise, to whatever degree possible, their own protection strategies. They will develop communications systems. They learn to recognise who can be trusted and who cannot. They create hiding places and learn how to avoid detection. They have a sense about which authorities are the most hard-line and who is most susceptible to pressure.

Obviously, however, people under threat are at a great disadvantage. They usually have little or no political power and often do not have access to money or other resources. Their ability to communicate with other endangered people or with the outside world is often severely restricted. They are afraid, for themselves and for family members, and are therefore often extremely cautious – which is both a help and a hindrance. They need practical and psychological support; they need to know they are not alone.

International organisations need to find better ways to provide timely support to people, either inside or outside regions, who are willing to speak out or to act against regimes or authorities that do not respect human rights. One of the greatest benefits of the linkage between international and local NGOs is the degree of protection afforded members of local NGOs through the threat of rapid publicity that may harm the government’s image in the world community (Fitzpatrick, 1994). Even groups with limited membership can, through such contacts, increase pressure to respect human rights. But public exposure is not enough and in some cases publicity can have a negative effect. There must be effective action where the endangered people live.

Those engaged in protection work must keep in regular contact with representatives of endangered groups in order to establish communications systems, analyse patterns of abuses, and evaluate approaches to protection.

People under threat need to be able to pass information to the outside world or to others inside quickly. Funding for communications (telephone service and fax machines) and computer equipment to facilitate networking capability is often needed. It is important to think ahead about communications problems which might occur during a crackdown or crisis so that if some contacts are disrupted, others will still function.

### ***Self-Protection Workshops***

Workshops for local human rights advocates and other citizens interested in protection have been conducted in many parts of the world to provide legal information, describe monitoring techniques, and strengthen networking skills. Workshops might also focus on assisting groups or individuals at risk to analyse patterns of abuse and to develop or expand practical self-protection strategies. Information about how to behave if taken hostage, for example, could be shared in a

workshop setting. Obviously, such tactics are only likely to succeed in situations where abductions are a tactic of intimidation, and not when the original intent is to murder and ‘disappear’ the victim.

Rape crisis and domestic violence organisations have also sought to identify techniques for survival which could potentially be adapted to other situations.

For obvious reasons, precautions should be taken to ensure that attendance at the workshops will not increase risk. Workshops could be conducted outside the local area if it is too dangerous to hold them inside, with results later shared with those unable to attend.

***Neighbourhood or Village Watches***

This tactic involves the assignment of watches (periods of observation) in high-risk areas. Persons on watch are instructed to report any unusual activities to a central point in order to get help. Systems enabling round the clock notification of international organisations (if present) must be devised whenever feasible, especially in cases where the police or other authorities are responsible for carrying out abuses or are not able or willing to protect citizens.

Warning systems need not be ‘high tech’. In Rwanda, according to one human rights monitor, expatriates in one area discussed with Tutsi residents, village to village, the problem of Hutu militia incursions into Tutsi homes/villages. The Hutu attackers knew the villages well, even

where each person was sleeping. Villagers developed a basic civil defense system, where lookouts were assigned just outside the village to keep watch. If any suspicious movement was noticed, the lookouts banged loudly on jerry cans as a warning to those sleeping. The word would be passed on to other villages and an alarm system set up to notify local defense forces if there was an incursion.

**Focus: Indigenous Action in Central America**

Many lessons can be learned from the experience of NGOs in Central America, but especially instructive was the fact that the impetus for action came from within. NGOs – both internal and external – believed there was a moral imperative to become involved in protection activities and created alliances. NGOs familiar with the area were able to switch quickly from relief aid to protection activities. Locally organised groups took the lead in protection, and created alliances with international groups. In El Salvador, church-related development organisations, familiar with the rural areas, quickly reorganised as emergency responders: ‘With links into the communities most affected by conflict, they combined political and physical access with a moral basis for involvement, expressed in the term *acompanamiento*’ (Eguizabal et al, 1993).

# 4

## The Role of Relief NGOs in Protection

### Recognising the Need to Address Protection

Experience in other settings confirms that NGOs providing relief assistance are strategically placed to enhance the protection available to at-risk populations. They may do this through strategic presence in the field (that is, the strategic design and location of relief programmes, the sharing of information with human rights, peacekeeping, and other officials, and advocacy with local and central government officials). NGOs may help to identify and close existing protection gaps through engagement in protection-related activities at many different levels without becoming ‘agents’ of human rights groups or interfering with the work of organisations with protection mandates.

Further, relief and human rights NGOs must find better ways to influence peace negotiations and the planning of peacekeeping operations in order to keep protection on the agenda, in both the practical and legal sense. Given the current state of affairs this view may seem overly optimistic, but militaries engaging in peacekeeping operations have begun to recognise the importance of increased contact and even coordination with NGOs in complex emergencies. Thus, opportunities to engage in relevant discussions and advocacy with peacekeepers are likely to present themselves. As Jacques de Milliano of MSF (1996) has stated ‘...we are better informed and more professional than ever before, and yet we seem unable to mobilise sufficient political will to change the course of

those human tragedies...But, mobilizing world indignation in the light of atrocities and misery can never be enough. We, human rights and humanitarian organisations, are entrusted by our civil societies with a mission to have an impact through our actions.’ (Milliano, 1996).

NGOs should also become more adept at using the considerable power and influence at their disposal to demand consideration of protection and other humanitarian concerns at high level policy meetings in the UN Security Council and other fora. Governments cannot afford to ignore the ability of NGOs to influence public opinion and mobilise action: ‘NGOs collectively represent the second-largest source of development and relief assistance, second only to bilateral governmental donors’ (Donini, 1995). Donini uses as an example the role of Africa Watch, MSF France and Belgium, Oxfam and African Rights in London in forcing an (albeit delayed) response to the Rwandan crisis. NGOs can play an important role in acting as intermediaries between hostile groups and the international community in peace negotiations and can serve as interlocutors when there is no functioning central government. They have already built an expertise in working in conflict zones and with isolated populations, and have the operational capacity to address emergency needs quickly.

This hints at the tremendous leverage available to NGOs. They have emerged as potentially major players in an arena traditionally limited to diplomats and intergovernmental organisations (IGOs), and this new-found power must be used in the service of protection.

‘As local conflicts of high or low intensity continue around the globe’, Helga Baitenmann has asserted (1994) ‘host governments, the U.N., and the ever-present super-powers are likely to look to NGOs for help. NGOs will have to make difficult decisions about what their involvement will entail.’ The environment is ripe to explore new approaches to protection and to involve NGOs in protection planning and implementation.

‘New thinking about refugee issues, such as preventive protection, in-country assistance, country-of-origin responsibility, monitoring, early warning and comprehensive approaches is drawing humanitarian institutions more and more deeply into armed conflict’, UNHCR asserted in its 1993 report *The State of the World’s Refugees: The Challenge of Protection* (UNHCR, 1993). This statement was written before the conflicts in Rwanda, Chechnya and Kosovo. Since that time, NGOs have learned only too well what it means to be ‘drawn in’.

Still, NGOs may be in a unique position to intercede when civilians are under threat and can often operate outside the political constraints that sometimes impede the policies and actions of IGOs and national governments (ibid). They must, however, grapple with the fact that they may ultimately worsen conditions for those they seek to help by propping up those responsible for war crimes or human rights violations.

## Grappling With How to Respond

The increased presence of international NGOs in conflict areas means that relief workers directly witness violations more frequently than in the past. In fact, NGO staff are now often the primary witnesses, especially in situations involving IDPs where other internationals may not be present (ibid).

A veteran relief worker who has served in a number of trouble spots recalled his experience in Kosovo in late 1998. While delivering sacks of flour to outlying villages he found a family gathered around a cooking fire next to the ruins of their home, destroyed in an assault by security forces. ‘We don’t need your food’ they told him. ‘Do you see that hill over there? Just over it there are Serbian forces. Can you park your truck and stay with us awhile?’ He could not – he had to move on in order to complete deliveries to other villages. On another occasion the same worker saw some civilians being rounded up at gunpoint in a field as he passed by in an aid convoy. UNHCR Pristina was informed of the situation by radio, but the convoy kept moving without stopping. It was, after all, not the job of convoy drivers to take risks to protect civilians. But the irony of delivering food to people who so clearly were in greater need of protection was not lost on the aid worker. ‘I could give them a sack of flour,’ he said, ‘but their more immediate need was to feel safe.’

This is not to say, however, that the services provided by relief organisations are a critical component of any overall protection plan. Many relief NGOs acknowledge, however, that being present where abuses are committed

carries an obligation to respond beyond the provision of traditional medical and relief supplies. While feeding the hungry and aiding the wounded or displaced could be viewed as a kind of protection activity, attending to those needs when there is insufficient attention to the need for physical security from direct or indirect attack misses the mark. What in reality are protection failures are too often defined as humanitarian crises which, despite the fact that the term humanitarian includes the humane and dignified treatment of people, is often interpreted to mean assistance in the form of food, shelter, and healthcare. This shifts the focus away from the real problem, that which both cause the need for these services and cannot possibly be addressed through the distribution of relief supplies.

Placing emphasis on physical security has vastly different implications for programme planning. ‘We do not talk about populations in need’ notes MSF-Netherlands director Jacques de Milliano. ‘We prefer to describe them as populations in danger’ (de Milliano, 1996). No wonder, then, that MSF’s concerns often relate directly to field-level protection.

While the question of how to respond in emergencies caused by deliberate targeting of civilians has been of profound interest to a few humanitarian relief NGOs, such as MSF, the issue is not yet well-defined for many others, although over the past several years protection has become a more familiar part of the relief lexicon. The concept of NGO involvement in protecting civilians is not new, however. NGOs carried out vigorous protection programmes during World War II and the conflicts in Central America. In BiH, some relief NGOs engaged in protection-related activities on the ground (such as distributing ‘blue cards’ to individuals to enable them to escape certain areas).<sup>10</sup> These activities were often carried out on an ad hoc basis by individuals who felt compelled to take action. After World Vision-UK’s experience in Rwanda, Jeff Thwinda of World Vision asked if the organisation should become more involved in protection, possibly even partnering with human rights organisations when appropriate (Brandt, 1995). Still, few relief organisations seem seized with the notion that they have an important role in enhancing protection. Current conditions require a more proactive approach than has been used in the recent past and the involvement of an increased number and variety of organisations.

Many relief NGOs continue to express concern that their missions could become jeopardised due to visible (or even discreet) activity in protection monitoring and reporting. These NGOs find it difficult to visualise the role they might play beyond public advocacy or the passing of information to groups with specific protection or human rights mandates.

NGO participation in protection can be viewed as occurring along a continuum which provides multiple opportunities for engagement and which may or may not involve public discussions about human rights. Every NGO present in the field can play a role in protection which ‘fits’ their mandate and mission. NGOs may choose to enhance protection through strategic presence in an area



## Focus: Operation Lifeline Sudan – Toward an Integrated Approach to Protection

Operation Lifeline Sudan (OLS) serves as a model of possible cooperation between IGOs and NGOs on the ground in protection.

OLS first undertook to negotiate formal 'Ground Rules' with armed opposition movements in an effort to improve security for field staff following the killing of some aid workers and journalists. By 1994, OLS realised that the Ground Rules could be used as a potentially useful way to address the failure of armed opposition groups to respect humanitarian principles through engagement of these groups in a revised joint agreement which would spell out obligations on both the assistance and combatant sides. Most importantly, it was an opportunity to 'bring together the delivery of humanitarian assistance and the protection of civilians as integral and inseparable parts of their mandate' using as a basis the Convention on the Rights of the Child (CRC) and the principle of rights-based as opposed to needs-based programming. UNICEF also drew guidance from the UN Department of Humanitarian Affairs (DHA) document 'Respect for Humanitarian Mandates in Conflict Situations', which asserted that the protection of civilians was central to the humanitarian effort during armed conflict (RRN Network Paper 21, 1997).

The principles delineated in the Ground Rules included obligations for both humanitarian organisations and combatants: specifically, 'the right to humanitarian assistance', 'neutrality' (defined as the refusal to take sides in the conflict or to use assistance to promote a political or religious agenda), 'impartiality' (provision of assistance on the basis of need independent of racial, ethnic, religious or political factors), 'accountability to donors and beneficiaries', 'transparency' (although there was some internal disagreement about total transparency), local NGO and intra-OLS capacity-building, and the 'protection of civilians and relief staff' based upon the ICRC and the Geneva Conventions (ibid).

OLS learned that there were some members of the armed groups who saw their cooperation as a demonstration of their movement's just cause and as a way to gain credibility and legitimacy in the eyes of the international community. While the sincerity of some of these individuals was to be questioned, others seemed truly invested in bringing about change.

Some NGOs outside the OLS viewed the agreement with skepticism worried that they might be expected to be human rights monitors, thereby compromising their ability to conduct operations. In retrospect, says Levine, 'we did not do enough to involve [those NGOs] – or the donors – in the process' (ibid).

Disseminating the Ground Rules and the principles behind them was a difficult task. It was clear that the involvement of influential members of the community was necessary: military leaders, local NGO representatives, leaders of women's groups, chiefs, elders, and religious leaders – as well as the general population. Interestingly, OLS decided to provide training workshops for the military and civilians together.

In addition to providing information about humanitarian principles, the OLS sought to support capacity-building, particularly among churches and local NGOs as well as those interested specifically in human rights and protection.

Difficulties encountered by the project included the reluctance of NGOs to share information about violations of the Ground Rules or other sensitive topics, and the failure to set up a system where problems could be quickly identified, verified, and followed up. The fact that no accountability was built into the agreement (there were no consequences for violations) became a serious deficiency (ibid).

OLS did occasionally withdraw from areas due to impossible working conditions. However, it found that NGOs strongly objected to withdrawing assistance from those in need because of abuses by local political and military authorities. They believed that such action would represent a violation of the Ground Rules, which asserted that humanitarian assistance was a right.

The OLS initiative, despite its inadequacies, represented an important development in humanitarian assistance by placing protection at the centre of its activities. The Ground Rules certainly increased the awareness of the military and civilian community of their obligations to protect civilians and ensure that they received humanitarian assistance. Unfortunately, as has been the case in most if not all recent conflicts, the lack of enforcement mechanisms, resulting in impunity, undermined the potential for success.

where abuses are occurring, visits to persons under threat, or the provision of medical services to the wounded and food to victims of imposed starvation. Some pass on information quietly, whereas others issue public protests.

In addition to the strategic development and placement of assistance programmes, protection activities might include providing more direct protection assistance such as serving as a conduit for information in emergencies, ensuring 24 hour access to staff during emergencies, and participating in protection working groups.

NGOs may opt to develop programmes that will permit access to high risk populations, or might decide to

physically accompany returnees to insecure environments. Some few will choose to engage in even riskier actions to save lives by hiding people or helping them escape. Arguably, each NGO present in the field can find its own place along the protection continuum to act.

### Challenges for NGOs

While some NGOs believe that they have a role to play in enhancing the protection of at-risk civilians, there are issues which give many NGOs to pause. It is essential that these issues are explored if NGOs are to be encouraged to expand the scope of their activities to include protection.

### ***Mandate and Mission***

A primary consideration for NGOs is how involvement in protection might affect their ability to carry out their mission. NGOs recognise they lack the experience and infrastructure, not to mention the mandate, of organisations such as the ICRC and UNHCR. Some would prefer protection be left to these experts. NGOs subscribing to the maxim, ‘First, do no harm’, are concerned about their ability to engage in protection work in a responsible way. They worry that engaging in such activities could put them in over their heads, jeopardising the safety of their staff and beneficiaries.

### ***Loss of Perceived Neutrality***

NGOs often fear their involvement in human rights or protection activities might be perceived as violating the principle of neutrality (not taking sides in political or ideological debate). The combining of humanitarian efforts with peacekeeping and military operations has complicated efforts to maintain separate identities and missions. Relief organisations are increasingly being drawn into situations where assistance activities are not sufficiently supported by efforts to resolve the conflict. This compromises the effectiveness of international organisations and places staff in danger. It also places civilian populations at increased risk, especially when assistance serves to aid or abet one party to a conflict or to camouflage the need for strong outside intervention.

Antonio Donini has pointed out that in Afghanistan, many NGOs took sides in the conflict and resisted assisting the civilian population in government-held cities despite the need evident there: ‘[N]one of the NGOs based in Peshawar felt a humanitarian imperative to provide aid to these innocent victims. Only the ICRC and, later, the UN agencies were consistently present on both sides...Many expatriate old hands employed by NGOs had “gone muj” in appearance, dress, demeanor and even values. Because of the politicized environment, the humanitarians usually operated in a political space instead of promoting humanitarian space and respect for humanitarian values.’ Donini continues, ‘Aid organizations were not...self-critical about human rights issues, including women’s rights...Often NGOs – and occasionally even the UN – went out of their way to be accommodating on women’s rights issues, accepting, without even testing it, the conventional wisdom that it was not possible to go against the grain of tradition in an Islamic society’ (Donini, 1996).

Donini also asserts that NGOs working in Afghanistan ‘tended to apply double standards, chastising the Kabul government for its “massive violations of human rights” and sparing nothing to document them, but they remained largely silent about the atrocities committed by the mujahidin...the problem was compounded by the official UN human rights machinery, which, with biannual trips of the special rapporteur to the region, did not seek any real interaction with the humanitarian agencies (or with the political UN)...With the benefit of hindsight, the spinelessness of UN organizations and the lack of leadership in human rights issues by the

UN coordinating body appears as a striking example of Cold War tunnel vision’ (ibid).

According to one view, the concepts of neutrality and impartiality do not prohibit taking a resolute stand on behalf of victims but imply a commitment to vigorously assist victims whatever side they are on. In other words, one can be neutral in the sense of not taking sides between the warring parties, but this does not mean being indifferent when it comes to abuses and violations. One reacts not because of who commits the violation, but because of the nature of that violation.

### ***Loss of Access and Risk of Expulsion***

Many NGOs fear losing access to areas as the result of antagonising military or civilian authorities over human rights issues or their engagement in protection activities. NGOs are aware that the perception they are not a neutral party places them at a disadvantage. International organisations have sometimes been forced to leave countries after ‘going public’ after witnessing abuses.

Joan Fitzpatrick, author of a book on human rights during states of emergency, has pointed out that ‘Given the inadequate resources of the UN Centre for Human Rights [now within the office of the UN High Commissioner for Human Rights (UNHCHR)], the proliferation of treaty, thematic, and ad hoc bodies, and the [UN Human Rights] Sub-Commission’s continual authorization of additional abstract studies of human rights issues, the reliance of UN bodies on NGOs for basic information concerning human rights practices can only be expected to increase’ (Fitzpatrick, 1994).

In some countries, health professionals have a professional responsibility to report suspected child abuse. Should a similar standard be applied when international professionals observe human rights abuses or violations of international humanitarian law? Amnesty International (AI) asserts that the sharing of information about human rights abuses should occur worldwide. Although AI directs comments regarding reporting primarily to UN agencies, it encourages every international witness in the field to report abuses: ‘International field personnel, including those engaged in military, civilian, and humanitarian operations, should report through explicit and proper channels any human rights violations they witness or serious allegations they receive’ (AI, 1994).

AI suggests that the UN should be prepared to respond to such reports. It is not always clear, however, which UN body should receive them. Further, the UN is not always present in conflict areas, nor are UN agencies uniformly interested in addressing complaints about human rights abuses or the need to respond in practical ways to protection problems. Thus, instructions to field staff should include specific information about how to report human rights violations or protection concerns and to whom, given the organisational structure specific to the region where they are working.

A 1990 study of human rights monitoring relating to the Issaks of northern Somalia found that relief organisations

did not believe human rights monitoring was a formal part of their mission, or should be, despite significant human rights abuses in areas where many IGOs and NGOs were operating. ‘Agencies mentioned that their reports of tensions and violence in the area focused on human rights abuses only as indicators of the overall or regional context of their own operations in the country’, the report states. Further, it was discovered that organisations had little knowledge of how to monitor or report abuses. Those polled pointed out the necessity of maintaining a neutral, non-political stance and the need to maintain good relations with authorities (Beyer, 1990). Nine years later, these issues continue to be of major concern to NGOs. Should denial of access or expulsion of internationals occur, the role of local NGOs in monitoring the human rights situation and responding to protection problems affecting their beneficiaries becomes much more important although the security risks are obviously often much higher for locals.

During 1994 in Liberia, it was not possible for most humanitarian organisations to gain access to much of the country beyond the capital, Monrovia, although it was in the countryside that many human rights abuses were occurring. One humanitarian NGO decided to engage local staff to investigate quietly allegations of abuses out of concern about the lack of information, and then passed on the information to human rights organisations (MSF, 1996). In situations where access is threatened, it is important to attempt to establish back-up systems so that the information flow about protection concerns is not disrupted. International NGOs can support the protection work of local NGOs by discussing options with them before crises occur if possible, and by providing them with concrete support such as radios, faxes, computers or other communications equipment.

MSF-Netherlands director Jacques de Milliano, while acknowledging concerns about losing access to populations in danger, has also said, ‘I believe the real risks to our operations and our ethics lie in silence...there are plenty of examples where human rights advocacy has in fact increased access to the victims and improved the safety of our staff, as was the case in Burundi’ (ibid).

Organisations engaging in protection work must always walk a fine line, but strategic planning, cooperation, and coordination in the field (a strength-in-numbers approach) could help maintain a broad protection strategy that does not place the onus for protection activities upon one organisation. NGOs are better off working in coalition with other NGOs on sensitive issues rather than alone, although sometimes the perception of linkages between NGOs and human rights groups has created additional problems. The key is to ‘think smart’ about how to engage and how to present programmes and activities in ways which will enhance acceptance by the authorities and/or the populations. Negotiating and mediating skills are important prerequisites for field staff engaged in protection activities. Assertiveness and perseverance, measured with diplomacy and tact, play vital roles in keeping the balance between too aggressive or too acquiescent an approach.

### ***Staff Training and Preparation***

As stated, the presence and actions of international relief workers provide a level of protection to at-risk people, and aid workers play an important role in bringing attention to the need for field-level protection. Relief workers in the field, however, are often young and inexperienced. They have difficulty knowing how to respond when they observe human rights abuses, especially when abuses occur despite the presence of international witnesses, when their mandate vis-à-vis protection is not clear, and when their own safety is threatened. They lack information about what to report to whom, and are unclear about their own organisations’ expectations of involvement at the field-level. As mentioned, some develop ad hoc responses which may or may not have the support of headquarters.

Arguably, everyone working in a conflict zone needs information about what to do when serious gaps in protection are observed firsthand or are reported by refugees, displaced people, or people at risk. The aid worker also needs to know what to do if he or she is threatened. Few relief workers report receiving adequate briefings on these issues. Another problem is a failure to overlap deployments sufficiently so that relief workers can receive solid briefings from workers rotating out of the field. New field personnel waste valuable time repeating assessments and may make serious errors when their decisions are based on only partial information.

A policy analyst for the US Committee for Refugees discovered that NGOs contributed to problems in Rwanda by sending staff without country orientation. Many NGO personnel lacked understanding of the complex issues facing Rwanda or the genocide which occurred there. NGOs used inadequate screening methods when hiring local staff and in some cases ended up with suspected murderers on their payrolls. NGOs working in the Goma refugee camp (in what was then Zaire and is now the Democratic Republic of the Congo) often had inaccurate perceptions of what conditions in Rwanda were really like – a fact which contributed to the problem of convincing Rwandans to repatriate. NGOs also failed, by their own admission, to distribute information, including information about human rights conditions, which could counter the relentless propaganda perpetuated by leaders in the refugee camps (Drumtra, 1995).

### ***Protection and Pre-Assignment Briefings***

Many representatives of humanitarian organisations continue to be sent to the field with inadequate pre-mission briefings. It is critically important, especially given the risks to staff and beneficiaries that seem to be the status quo in today’s complex emergencies, that the person entering the field be given information about protection. This briefing should, at a minimum, include not only information about staff safety related to health and accident prevention (the evaluation of identification and avoidance of land mines, how to behave if fired upon in a vehicle, etc). The protection of local staff from violence and policies relevant to the protection of

## Focus: NGO Presence and Protection in Serb-held Areas of BiH

The presence of the UN and other organisations in BiH rarely prevented the violation of international humanitarian law during full-scale military operations in that country (in part due to the passive presence of UN troops). The incidence of violations in areas where military activity had subsided, however, seemed lower when there was a strong international presence with full access for NGOs, UN agencies and the media.

In contrast to the strong presence of NGOs on the Bosnian government side during the war, there was a distinct lack of an international NGO presence in Bosnian Serb areas. The question of whether greater NGO presence might have mitigated abuses in these areas is an important one that has implications for work in other regions.

NGOs were reluctant to work in Bosnian Serb-controlled areas due to concerns about staff security, limitations upon access imposed by the de facto authorities, problems convincing donors of need, and allocation of resources to other areas of Bosnia. But some believe the lack of NGO presence was due to a general reluctance to help the Serbs.

A civil affairs officer for the UN Protection Force (UNPROFOR) in Sarajevo asserted that if NGOs had been present on the Serb side from the beginning, negative attitudes toward the Serbs might not have been so strong and the Serbs might have been more responsive to peace negotiations. While this is debatable, NGOs might have had a better chance of reaching minorities at risk behind the Serb lines had they engaged the Serbs in some way. Non-Serbs living behind the lines believed without doubt that increased international presence was critical for their protection. The absence of international witnesses was perceived as abandonment. Ultimately, most non-Serbs (who had managed to hold on between 1992–94) were violently expelled from Serb-controlled territory in 1995. The fact that few international organisations were present during these expulsions, and that no emergency evacuation plans were made, contributed to the magnitude of the tragedy.

One ICRC delegate asked: 'Why were [NGOs] not there [working on the Bosnian Serb side]? Because they didn't want to work there or because the authorities wouldn't let them? NGOs need to look at impartiality – do they have problems objectively addressing need? They have to decide what their focus will be – on minorities, on human rights? All actions need to be based upon need.' (Interview by the author, Croatia, September 1994.)

According to a UNHCR official, UNHCR at one time tried to persuade NGOs to develop programmes in Banja Luka, a major city in northern Serb-held Bosnia which had a substantial non-Serb population even after the ethnic cleansing operations of 1992–93.

In the spring of 1994, a letter from UNHCR encouraging NGOs to consider operations in the Banja Luka region was sent to about 70 NGOs describing the needs of the local population and expressing the hope that NGOs would demonstrate impartiality in assistance to victims of the conflict through consideration of programmes on the Bosnian Serb side. Only 10–15 responses were received. Of these, six or seven NGOs said they would consider working in the area, but none ever followed through. Part of the reason for this was that the effort was too late. UNHCR staff members were evacuated after the Bosnian-Serbs made threats against the UN during a period of heightened tension; those few NGOs who had previously expressed interest in working on the Serb side subsequently decided it was too risky.

According to a representative of a major IGO, however, there was 'not enough need for NGOs to work on the Serb side.' His interpretation of need, however, was based solely on the provision of food and other 'traditional' relief assistance. UNHCR also failed to perceive the potential benefits of increased presence.

Had UNHCR looked at things differently, NGOs would have found sufficient legitimate need to justify increased presence thereby accomplishing the goals of assisting civilians in need and enhancing protection for minorities under threat.

An assessment of potential roles for NGOs in Banja Luka revealed specific opportunities for involvement with the local population through healthcare and neighborhood-based projects. There might well have been a role for agencies like the UNICEF, which did not have a presence in Bosnian Serb-held territory despite requests from UNHCR to open an office there. Local doctors had reported signs of malnutrition and anemia in children and UNICEF might have gained access by offering nutritional assessments and feeding programmes for children or special programmes for mothers and children; services which might have been well-received by the local population given the pre-war exposure to UNICEF activities in Yugoslavia. Had UNICEF engaged in Banja Luka, they could have assessed the potential for expanding services to include non-Serbs and perhaps helped to interest other NGOs in starting projects.

Indirectly, the mere presence of more international observers may have mitigated abuses and facilitated the flow of information to the outside – an issue that was a problem given the general reluctance of the ICRC and UNHCR to publicly condemn violations of international law. The few NGOs operating in the area did manage to obtain valuable information about what was happening to minorities and to assist them, albeit in limited ways.

Granted, the open provision of assistance to minorities in Banja Luka was difficult even for organisations such as the ICRC and UNHCR, which have well-recognised protection functions. Still, had more NGOs been present, it might have been possible to expand humanitarian space further, by strategically planning and

placing services such as health clinics, soup kitchens, or social programmes for the general population (which of course included minorities) by focusing as much as possible on outreach programmes (once in the field, quiet activities to assist minorities under threat could have been developed), and by developing relationships with the authorities, some of whom were easier to get around than others.

The authorities tolerated NGOs, however, only when they perceived a bona fide interest on the part of the NGO in assisting the local Serb population. NGOs seeking to enter Serb-held areas specifically to aid non-Serbs would have been denied access. It was only through aiding the local population that NGOs were able to reach some minorities in need.

Representatives of NGOs were asked whether they would have responded differently had UNHCR pointed out the situation for minorities in the region, the importance of a greater international presence, and the potential for NGO presence to mitigate abuses. One official of a major international NGO said that if UNHCR had tried to explain the need for increased presence in Banja Luka for protection reasons it would definitely have made a difference. Others indicated interest in the idea but said budget constraints and commitments in other regions of Bosnia would have made it difficult to develop programmes in Banja Luka.

beneficiaries (how to respond when violations are witnessed) are equally important. Ideally, field personnel should be provided with information about current conditions relating to protection, relevant

contacts in the field (who to call), international law relevant to the mission area and specific, clear guidelines about the organisation's expectations and approach when beneficiaries fall victim to attack or persecution.



# 5

## Conclusion

The further development of ideas relating to increased involvement of relief NGOs, peacekeepers, civilian police monitors, and others in meeting protection needs must be encouraged. Examination of how these organisations can become involved in protection without compromising their primary missions will be an important focus of future discussions. Training and specific, pragmatic guidelines for protection work at the field level, modeled after the guidelines adopted by UNHCR for the protection of refugee women, need to be created.

Protection should be the concern of all those present in the field. Healthcare workers, logistics officers, convoy drivers, mental health workers, and others are often in daily contact with beneficiaries in danger. They can be invaluable resources to the staff of organisations with protection mandates or human rights organisations if planning is strategic and focused. The inclusion of protection specialists in NGO operations and humanitarian experts in human rights organisations may help focus attention on the need to share information and ideas. Each organisation, according to its mandate, can find ways to complement the work of others. Increasingly, violations of human rights and protection issues are viewed as a legitimate public health concern and will hopefully one day be given equal status to the prevention and treatment of disease.

As awareness of the interaction between field-level activities and protection increases, responses can be

planned rather than ad hoc. Sometimes, however, impromptu projects by field staff familiar with a particular situation are very effective. Situations vary. It is not appropriate to expect that what will work in one situation will necessarily work in another, or to set parameters which are too restrictive. What is needed is an expressed commitment to the concept of all international organisations in the field to press for the effective protection of civilians, followed by the sharing of ideas relating to protection, so that field staff are prepared to meet the challenges they will most assuredly face in the future.

Interestingly, some of the most innovative and effective strategies have been devised and implemented not by relief/development NGOs or human rights organisations but by diplomatic missions, some of which extended protection in unorthodox and even 'illegal' ways. While Raoul Wallenberg and his cohorts provide some of the most well-known examples, others also engaged in similar pursuits, sometimes with astounding success. John Rabe (ironically, a member of the Nazi party) saved many lives during the Rape of Nanking by standing up to the Japanese who tolerated him due to his connections (Chang, 1997). Chiune Sugihara, a Japanese diplomat in Shanghai, saved 10,000 Jewish lives by issuing foreign transit visas – in direct violation of his own government's policies. Sugihara, while extraordinary in terms of the number of lives he saved, was not the only Japanese diplomat to engage in such acts of heroism (Levine, 1996). Obviously, governments would, generally

speaking, not be enthusiastic about teaching diplomats to circumvent policies and politics, but the actions taken by these individuals can provide inspiration for those seeking ways to assist persons in grave danger.

One of the greatest challenges lies in discovering how to intervene on the behalf of at-risk peoples before a given situation spins out of control. Organisations which have early warning functions as a part of their mandate, which are able to work closely with others to develop a situation-specific approach, and which can adapt to rapidly changing conditions without sacrificing the analysis necessary to plan effective protection programmes will be best able to meet that challenge.

Formal investigation of the ways in which relief and human rights organisations can support and complement each other's work, at both the policy and field levels, will be important. 'For humanitarian action to be effective',

observes Roberta Cohen, 'the provision of relief must be part of a larger and more integrated approach that includes attention to protection, conflict resolution, and increased coordination and cooperation between human rights and humanitarian organizations' (1994).

In the meantime, it is highly probable that relief workers, human rights monitors, activists, civilian police and peacekeepers with limited mandates will continue to serve as the only buffer between vulnerable people and those intent upon their destruction, removal, or subjugation. In the absence of political will to stop or prevent war crimes and the violation of human rights, the efforts of these organisations and individuals may be woefully inadequate, but they must nonetheless be encouraged to take every possible measure to protect those in danger. It is critical to develop and disseminate information about protection which will enable them to act rather than to stand helplessly by.

### Focus: Protection Issues in Kosovo

It is crucial to understand that protection concerns in post-conflict Kosovo involve not only the returning Albanian Kosovars, but also Serb Kosovars.

Key questions include: will peacekeeping troops engage in protective measures such as 24-hour patrolling? Will there be strategic placement of troops in high-risk areas, and active response to violent demonstrators who attempt to prevent return, etc? Otherwise, it seems unconscionable to indicate that it is safe to return.

The creation of a secure environment entails further action. In this respect there must be:

- leadership and guidance on protection issues in the field, with a 'focal point' for protection;
- full and unimpeded access by international peacekeepers, human rights monitors and humanitarian aid workers to all areas of Kosovo;
- a concerted effort to extend protection, perhaps through accompaniment or other means described in this paper, to individuals under threat due to their profession or political views, or their membership in a particular group;
- enforcement mechanisms to enable the immediate dismissal of any police officer or member of other security forces believed to have engaged in abuses.

In addition:

- the ICRC must be permitted to visit and register all detainees, including those detained following the signing of a peace agreement, and all international organisations must support this principle;
- humanitarian NGOs should consider protection problems and needs when planning assistance operations;
- any human rights monitoring mission should stress presence in the field and other measures to enhance physical security.

Protection efforts in Kosovo should be preventive, not just reactive. In this respect there is urgent need for the creation of an interagency protection working group in Kosovo, as well as the deployment of KFOR troops and civilian agencies for protection purposes in Serb Kosovar areas.



# Annexes

## Good Practice Questions in the Field-Level Protection of Persons under Threat

For the purposes of these guidelines, protection is defined as:

A methodology which seeks to enhance, through field-based strategic intervention based upon analysis and careful planning, the physical security of persons and groups under threat: essentially, the practical realisation of the rights of persons under international humanitarian/human rights and refugee law.

This definition seeks to address immediate and transitional protection needs, rather than the broad spectrum of political, economic and social rights – all of which are of the utmost importance.

### Basic Premises

All those present in the field have a responsibility to ensure that, at minimum, their actions do not exacerbate protection problems. In fact there is a compelling argument that those present should do everything possible, within the limitations of their mandates and missions, to mitigate the effects of and prevent abuses.

It has been argued by Amnesty International and others that there should be no ‘silent witnesses’ when human rights violations are observed. This does not mean that relief NGOs and others must ‘go public’ in protesting abuses, but should at least pass on observations to those responsible for addressing them.

Protection should involve an integrated response to human rights or humanitarian law violations. The collaborative engagement of a variety of IGOs and NGOs present in the field is required.

The participation of relief NGOs in protection can be viewed as occurring along a continuum which provides multiple opportunities for engagement and which may or may not involve public discussions about human rights.

The cornerstones of protection are:

- i. leadership;
- ii. access;
- iii. assessment and analysis;
- iv. presence and strategic intervention.

### Leadership

- Is there an agency charged with examining the ‘big picture’ in protection; one which is able to suggest strategies and planning according to the strengths, missions and mandates of the various players?
- Is there a ‘focal point for protection’ or a designated liaison for those concerned about protection?
- Are there specific efforts to ensure that protection receives adequate attention in the field, and to bring attention to the protection needs of specific groups

or for increased protection activities in certain areas?

- Does any agency have information about protection strategies used in other situations which could be replicated or adapted for current use?
- Has the establishment of protection working groups been considered (groups which are comprised of representatives of organisations interested in protection at the field level)? Are there specific persons with exceptional protection experience who might be ‘tapped’ to act as a resource to such groups on protection methodologies used elsewhere?
- Is any agency distributing information about protection, that is, ensuring that NGOs receive UNHCR’s *Guidelines on the Protection of Refugee Women and Sexual Violence Against Refugees: Guidelines on Prevention and Response*? (Both are available from UNHCR.)

### Access

- Is there full and unimpeded access to areas where persons are under threat? If access is not satisfactory, review options for increasing access.
- Who has authority to approve or demand increased access? Have those organisations or agencies been approached?
- Have relief and development, outreach, reconstruction and other programmes considered whether the placement of distribution centres, the location of meeting places, etc might improve access to high-risk populations?
- Have security considerations been taken into account for international staff?
- Have checkpoint advisories or policies been developed to address interference with freedom of movement? Are agreements reached at higher levels being transmitted to the rank and file of the local authorities or militias? If not, have steps been taken to remedy this at the highest possible level? Have NGOs considered creating a coalition to address freedom of movement/access problems?
- Does the ICRC have full access to detainees? Have the ICRC or other organisations been permitted to visit and register all detainees? If not, has the ICRC been consulted on steps which might be taken by other organisations to support their efforts to gain access? While visits to detainees should be conducted by those with special expertise, there may be ways to press the issue and there may be strong interest within the NGO community when beneficiaries are involved.

### Assessment

- Have experts in human rights/protection been included on emergency assessment teams?
- Have assessment missions included specific attention to protection concerns?

- Has a need for specific assessment missions (linked to other assessment missions) to focus on protection been identified?
- Have the specific populations, groups of persons, or specific individuals vulnerable under threat been identified?
- Have specific patterns of abuse been discerned, that is, are there particular times of the day or locations where risk is high? What are the implications for intervention based on these patterns?
- Have protection gaps been identified? Are there protection needs which have received little or no attention?
- Have the perpetrators been identified and is there an understanding of their modus operandi? How do they choose their victims and what are their objectives? Do they have a 'strategic plan'? Has protection planning incorporated knowledge about the perpetrators? (Mahoney & Eguren, 1997).
- Is there any organisation able to conduct analysis of the particular vulnerabilities or weaknesses of the perpetrators and to intervene accordingly? For example, if it is known who specific perpetrators are, and there are police monitors and/or peacekeepers present, are they willing to 'shine the spotlight' on perpetrators (attack anonymity), to conduct 'protection watches', pressure authorities to address abuses, etc?
- Do plans include addressing issues of accountability (ensuring an end to impunity)?
- Do plans for monitoring and reporting include an intervention plan to prevent abuses?
- Has the assessment team identified potential 'protection allies' – those concerned about protection who might be willing engage in activities which enhance protection with the understanding that they will not be asked to act outside their mandates?
- Has the assessment team asked victims or persons under threat what they would propose in terms of protective actions or asked them to react to specific programme ideas?

### Presence

- Is there sufficient international presence in areas where abuses are occurring? What is the level of knowledge about protection problems and what is the view toward engagement in protection activities?
- Has the need for increased presence in these areas been explored? If not, who might take the lead in advocating for increased presence?
- Is presence proactive or passive? In other words, is presence used consciously and strategically for the specific purpose of improving protection or are international organisations present but not engaging in programmes which have the mitigation of abuses as one of the goals? Have there been negative effects of a passive presence (are the perpetrators becoming 'innoculated' against the presence of internationals? Do they seem to be unconcerned about committing abuses in front of internationals? If so, the situation

is much more serious than one in which the presence of internationals serves as a deterrent, even if an imperfect one. If this is the case, what is being done to address the problem and is there awareness of the problem)?

- Have organisations been approached regarding the need for increased presence in areas where there are protection needs? How might their concerns about access, security, etc. be addressed?
- Is there round the clock coverage in areas where abuses are occurring? Is any organisation willing to respond at night? There is a pronounced reluctance on the part of most international organisations to be present in dangerous areas after dark for obvious security reasons. Has this problem been addressed? Have methods to increase self-protection or lower risk tactics for internationals been considered?
- Do persons under threat know how to contact international organisations in an emergency? Are they able to do so or can they be provided with the means to do so? Are they able to contact someone at any hour of the day or night?

### Strategic Placement of Relief Programmes

- What are possible and likely scenarios? What is the worst case scenario? The situation will be fluid; organisations must attempt to anticipate the next challenges.
- Have the potential negative effects of assistance/humanitarian relief upon protection been considered?
- Have the potential negative or positive effects of hiring persons from groups under threat been considered?
- Is the issue of accountability for perpetrators being addressed? Do relief NGOs know who to contact to express concerns about impunity of those who have threatened or attacked their beneficiaries?
- Have representatives from the population under threat been engaged in the development and implementation of protection plans?

### Protecting Endangered Groups

#### Women:<sup>1</sup>

- Are women included in protection planning and implementation? Are they participating in protection working groups? Are local women under threat involved in protection planning and response?
- Do women have access to and control over resources, especially in refugee and displaced persons camps?
- Have NGOs working in refugee and internally displaced persons camps considered the protection needs of women in the design and layout of camps, that is, the location of water and wood/fuel supplies; latrines; perimeter and sleeping area safety; the need for separate, secure areas for single women, etc?
- Are women staff members of international and local NGOs available to women in need of protection and other assistance? Are women staff members present at checkpoints, border crossings and other areas where women are at high risk?

**Elderly**

- Have the protection needs of the elderly been assessed? If there are elderly at risk, have organisations responded to these needs? Have specific approaches, such as outreach/home visit programmes, been initiated?

**Returnees**

- Has there been an assessment of the physical security risks to returnees, and has that assessment included reference to specific problems in specific areas? Have field-level tactics been developed to address these risks?
- Have organisations willing to physically accompany returnees to environments which may not be secure been approached for their assistance/advice?
- Is there a possibility of 24-hour or random patrols by peacekeepers, international police monitors or other groups; visits by international organisations to ‘show the flag’; residence of internationals (security permitting) in areas where persons are at risk? etc.

**Others** (that is draft-age male civilians, children at risk of forced recruitment as child soldiers, etc):

- Have the protection needs/concerns of other groups, especially those which do not fall into the usual defined categories of ‘vulnerable groups’, been evaluated? Or have such groups been neglected?
- Have persons with special expertise in working with specific populations at risk who might offer ideas about field-level protection tactics been consulted?
- Have tactics used in other situations to mitigate abuses been explored?

**The Role of NGO Relief Organisations in Protection**

- Do NGOs view the need for physical security as equal in importance to the need for food, shelter, and medical care?
- Are NGOs willing to consider planning which includes presence for the purposes of protection as well as the provision of traditional relief?
- Are NGOs willing to participate in protection working groups or are they willing to liaise with a designated focal point on protection?
- Have NGOs considered the strategic location and design of relief programmes which will increase protection through contact and ‘conscious presence’?
  - Soup kitchens which enable contact with a wide variety of persons in urban areas;
  - Outreach programmes for health or food distribution;
  - The strategic placement of distribution centres, warehouses, etc.
- Is direct contact or indirect contact with persons at risk the better methodology for prevention? Has the possible increase of risk due to contact with internationals been assessed?

- Have NGOs been approached about assisting in the identification and closure of ‘protection gaps’ through engagement in protection related activities (in consultation with organisations with specific protection mandates such as the ICRC and UNHCR, or the designated focal point or protection working group)?
- Are NGOs considering how their willingness or unwillingness to work in certain areas is affecting protection? (For example, a decision not to engage on one side due to the abusive behaviour of the authorities without considering the effect upon ethnic minorities living on that side may have the effect of cutting off persons in serious need of contact and assistance.)
- Are NGOs aware of the local history and are they taking precautions to avoid hiring staff members who may have engaged in human rights violations?
- Are NGO staff adequately prepared to respond to human rights violations and protection problems which arise in the field?
- Does pre-assignment briefing include the following:
  - Background and current situational information, including a brief who’s who of the combatants, authorities, IGOs and NGOs? Has the role of various UN agencies or other organisations been explained?
  - Practical information on international humanitarian, human rights, and refugee law pertinent to the situation (that is, the difference between internal versus international conflicts, the distinction between war crimes and behaviour that is permitted under the laws of war, who is a refugee, what is non refoulement, etc)?
  - Situational security information (that is, what to do in specific cases, such as when a vehicle is fired upon, when travelling in mined areas, etc)?
  - Basic information about reporting human rights abuses and what to do if one becomes a witness to abuses?
  - Training in negotiation, mediation, and communications skills (that is how to negotiate access, how to deal with problems at checkpoints, etc)?
  - Discussion of the organisation’s view relating to protection? (How protection is defined and how the NGO views its role in the field when violations of international law pertaining to the treatment of civilians are occurring in its area of operations.)
  - Is there an opportunity for less experienced relief workers to interact with more experienced persons?

**Notes**

1. Many of these specific suggestions come from UNHCR’s *Guidelines on the Protection of Refugee Women*.

# Endnotes

- 1 The term ‘populations in danger’ has been suggested by MSF as a means of bringing focus to the need for protection in complex emergencies.
- 2 The study of field-level protection strategies and the state of protection in BiH was conducted by the author under the direction of Fred Cuny, the Center for the Study of Societies in Crisis. A book based on the study of protection is to be published by the Jacob Blaustein Institute for the Advancement of Human Rights in 1999 and is entitled, ‘Beyond Monitoring and Reporting: Field Level Strategies for the Protection of Civilians Under Threat’. The ideas in this paper are based upon this protection study and later work.
- 3 IHL refers to the body of law which is essentially the human rights component of the law of armed conflict. The principle sources of IHL are the four Geneva Conventions of 1949 and the two 1977 Additional Protocols additional to those treaties, but earlier instruments (such as the Hague Convention) and, importantly, what is known as ‘customary law’ (which includes widely accepted norms relating to the treatment of civilians and other specific groups of persons during armed conflict) also apply.
- 4 Source: International Committee of the Red Cross.
- 5 The ICRC may offer its services to governments during periods of internal disturbances and tensions as well as under conditions of armed conflict. Since it is at times not clear that a situation has risen to the level of an international or internal armed conflict (as was the case in the earlier phases of the Kosovo crisis, for example) the ability to take this humanitarian initiative is important.
- 6 The Holocaust is generally understood to refer to the organised murder by the National Socialist Party of Germany (the ‘Nazis’) of some six million European Jews during the period 1933–1945 (other genocides or mass killings have since been referred to as ‘holocausts’, but the use of the name is controversial). Millions of non-Jews suffered terrible fates under the fascist regime, although only the Jews and Gypsies were marked for total destruction. The Rape of Nanking refers to the atrocities committed by the Japanese upon their occupation of the Chinese City of Nanking during seven horrific weeks from late 1937 through to early 1938. During this period, close to 300,000 Chinese non-combatants were brutally murdered and untold women were raped – thus, the tragedy became known as ‘The Rape of Nanking’.
- 7 This term, created by Anna Freud, refers to decision-making in child custody cases. Freud argued that courts should avoid determining who the best parent would be (it could be that both parties would make suitable parents) and should instead focus on what the least detrimental alternative would be for the child. If the child demonstrated strong attachment to one person, for example (termed the ‘psychological parent’), it would be least detrimental to his/her sense of well-being to remain with that person, provided he/she was adequately protected. For our purposes, there may be two or more bad alternatives and not many good choices, thus it may be more useful to focus on what approach is likely to cause the least harm.
- 8 UNHCR’s *State of the World’s Refugees* report for 1993 states: ‘Women, who have suffered, or who have a well-founded fear of suffering, sexual violence because of their membership in a particular social group deserve to be granted international protection and recognised as refugees under the 1951 Refugee Convention.’ Special consideration for resettlement for women at risk must be given. The women-at-risk programmes that some countries operate should be used more effectively, according to UNHCR’s guidelines. Despite the number of rapes which occurred during the conflict in BiH, however, special programmes to assist women seeking evacuation and resettlement were not utilised until a woman had already been raped. The special programmes should have been designed to prevent further rape.
- 9 UNHCR and the ICRC were able to evacuate small numbers of persons as ‘protection cases’ from Bosnian Serb-controlled areas of northwestern Bosnia. Unfortunately, one could only be considered a protection case after there had already been a serious threat to life or health.
- 10 ‘Blue cards’ were issued by UNHCR as lead humanitarian agency to representatives of NGOs. In many parts of BiH during the war, it was not possible and was too dangerous to move through checkpoints without a blue card. Many local NGO staff escaped or travelled to safer areas thanks to blue cards – and in not a few cases international staff issued them for this purpose.

# Acronyms

AI	Amnesty International
BiH	Bosnia-Herzegovina
CIT	Crisis Intervention Team
DHA	UN Department of Humanitarian Action (now OCHA)
HRW	Human Rights Watch
ICRC	International Committee of the Red Cross
IDP	Internally Displaced Person
IEBL	Inter-Entity Boundary Line
IGO	Intergovernmental Organisation
IHL	International Humanitarian Law
IRC	International Rescue Committee
KFOR	Kosovo Force
KLA	Kosovo Liberation Army
KVM	Kosovo Verification Mission
MSF	Médecins Sans Frontières
NATO	North Atlantic Treaty Organisation
NGO	Non-Governmental Organisation
OCHA	UN Office for the Coordination of Humanitarian Assistance
OLS	Operation Lifeline Sudan
OSCE	Organisation for Security and Cooperation in Europe
PBI	Peace Brigades International
RTLM	Radio Television Libre des Milles Collines
SPLA	Sudanese People's Liberation Army
UNHCR	United Nations High Commissioner for Refugees
UNHCHR	United Nations High Commissioner for Human Rights
UNPROFOR	United Nations Protection Force (in the former Yugoslavia)
UNAMIR	United Nations Assistance Mission in Rwanda

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# RRN

## Background

The Relief and Rehabilitation Network was conceived in 1993 and launched in 1994 as a mechanism for professional information exchange in the expanding field of humanitarian aid. The need for such a mechanism was identified in the course of research undertaken by the Overseas Development Institute (ODI) on the changing role of NGOs in relief and rehabilitation operations, and was developed in consultation with other Networks operated within ODI. Since April 1994 the RRN has produced publications in three different formats, in French and English: Good Practice Reviews, Network Papers and Newsletters. The RRN is now in its second three-year phase (1996-1999), supported by four new donors – DANIDA, SIDA (Sweden), the Department of Foreign Affairs (Ireland), and the Department for International Development (UK). Over the three year phase, the RRN will seek to expand its reach and relevance amongst humanitarian agency personnel and to further promote good practice.

## Objective

To improve aid policy and practice as it is applied in complex political emergencies.

## Purpose

To contribute to individual and institutional learning by encouraging the exchange and dissemination of information relevant to the professional development of those engaged in the provision of humanitarian assistance.

## Activities

To commission, publish and disseminate analysis and reflection on issues of good practice in policy and programming in humanitarian operations, primarily in the form of written publications, in both French and English.

## Target audience

Individuals and organisations actively engaged in the provision of humanitarian assistance at national and international, field-based and head office level in the 'North' and 'South'.

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Ministry of Foreign Affairs  
DANIDA

Sida

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